



## PLANNING AND ZONING COMMISSION

### MEETING AGENDA

April 27, 2022

Tom Baker Meeting Room	5:00 p.m.	City-County Office Building
<p>The City of Bismarck is encouraging citizens to provide their comments for public hearing items on the Planning &amp; Zoning Commission agenda via email to <a href="mailto:planning@bismarcknd.gov">planning@bismarcknd.gov</a>. The comments will be sent to the Planning and Zoning Commissioners prior to the meeting and included in the minutes of the meeting. To ensure that comments are compiled and forwarded to the Planning and Zoning Commissioners with enough time to review all comments, please submit your comments no later than 8am the day of the meeting. Comments received after 8am the day of the meeting will not be included for consideration by the Planning and Zoning Commission. Comments should also</p>		<p>include which agenda item number your comment references and your name (anonymous comments will not be forwarded to the Planning &amp; Zoning Commissioners or included in the minutes of the meeting). If you would like to appear via video or audio link for a 3-5-minute comment on a public hearing item, please provide your e-mail address and contact information to <a href="mailto:planning@bismarcknd.gov">planning@bismarcknd.gov</a> at least one business day before the meeting.</p> <p>As always, live meeting coverage is available on Government Access Channels 2 &amp; 602HD, Radio Access 102.5 FM Radio, or stream <a href="http://FreeTV.org">FreeTV.org</a> and <a href="http://RadioAccess.org">RadioAccess.org</a>.</p>
Item No.		Page No.

### MINUTES

1. Consider approval of the minutes of the March 23, 2022 meeting of the Bismarck Planning & Zoning Commission.

### CONSENT AGENDA CONSIDERATION

The following items are requests for public hearings.

2. **Tract 24A and part of Tract 24B, T139N-R81W/West Hay Creek Township (DN).6**  
Zoning Change (A to R10) | ZC2022-005 | *Consideration*

Staff recommendation: schedule a hearing ☐ schedule a hearing ☐ continue ☐ table ☐ deny ☐



3. **All of Municipal Fourth Addition (WH).....12**

Zoning Change (P to PUD) | ZC2022-006 | *Consideration*

Staff recommendation: schedule a hearing ☐ schedule a hearing ☐ continue ☐ table ☐ deny

## REGULAR AGENDA

### FINAL CONSIDERATION/PUBLIC HEARINGS

The following items are requests for final action and forwarding to the City Commission.

4. **Boden Addition (revised) (DN).....19**

Zoning Change (A & R5 to R10 & Conditional RT) | ZC2022-002 | *Public Hearing*

Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny

Major Subdivision Final Plat | FPLT2022-002 | *Public Hearing*

Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny

5. **Lot 1, Block 1, Cottonwood Parkview Addition (JW).....34**

Special Use Permit (Filling Station, Car Wash and Drive-through) |  
SUP2021-027 | *Public Hearing*

Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny

6. **Lot 16, Block 20, Wachters 4<sup>th</sup> Addition and  
part of Lot 1, Block 1, Kirkwood Addition (WH).....47**

Special Use Permit (Drive-through) | SUP 2022-003 | *Public Hearing*

Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny

7. **Elk Ridge Third Addition (JW).....57**

Annexation | ANNX2021-003 | *Final Consideration*

Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny

Zoning Change (R5, R10 and P to R5, R10 and P) | ZC2021-001 | *Public Hearing*

Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny

Major Subdivision Final Plat | FPLT2021-003 | *Public Hearing*

Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny

8. **Date Center Ordinance (DN)**.....**76**

Zoning Ordinance Text Amendment | ZOTA2022-001 | *Public Hearing*

Staff recommendation: approve

☐ approve

☐ continue

☐ table

☐ deny

### OTHER BUSINESS

9. **Other**

### ADJOURNMENT

10. **Adjourn.** The next regular meeting date is scheduled for May 25, 2022.

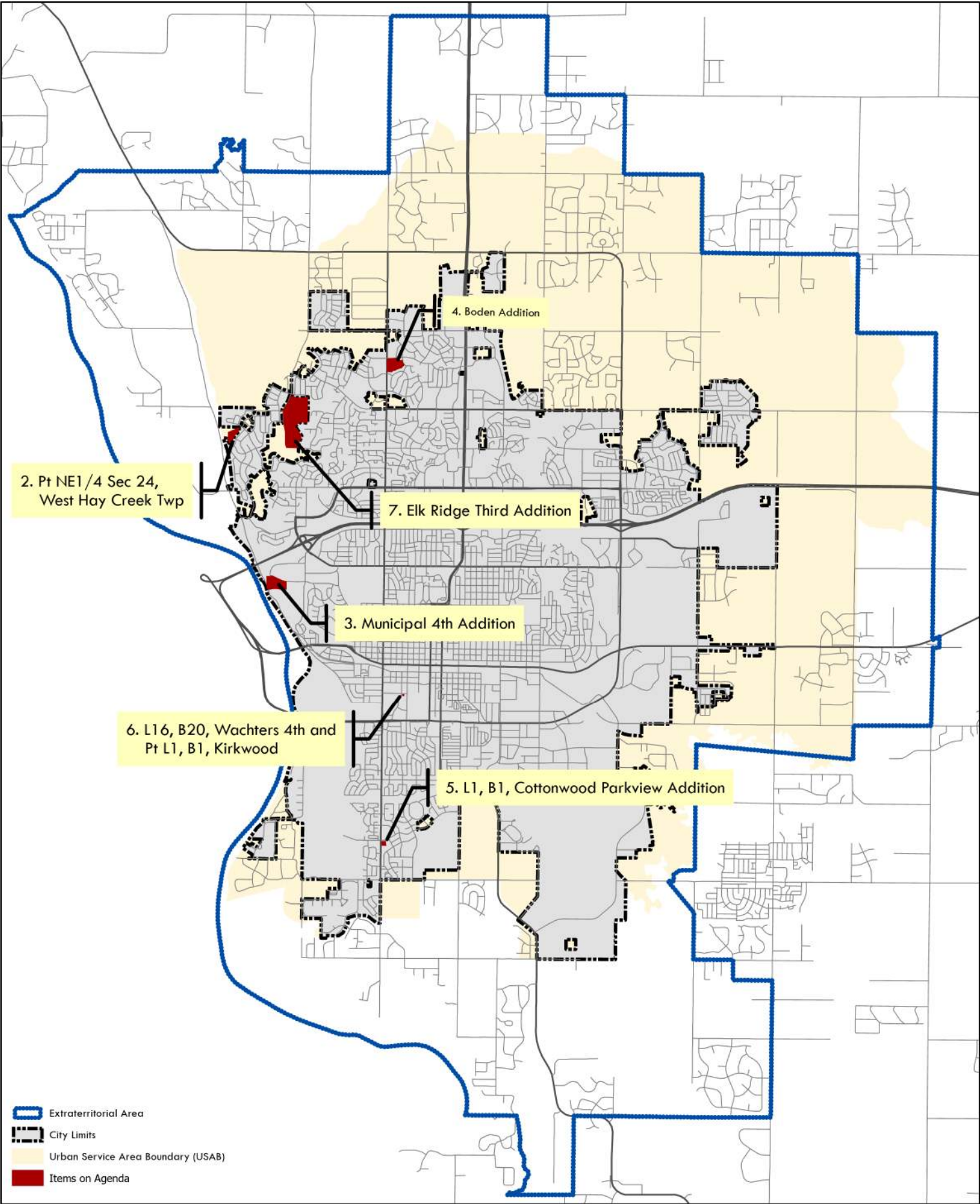
Enclosures: Meeting Minutes of March 23, 2022  
Building Permit Activity Month to Date Report for March 2022  
Building Permit Activity Year to Date Report for March 2022

## **BISMARCK PLANNING AND ZONING COMMISSION PUBLIC HEARING PROCEDURE AND PROTOCOL**

All public hearings before the Bismarck Planning and Zoning Commission will follow the same basic format. This outline has been prepared to help you understand the procedure and protocol.

1. The Chair of the Planning and Zoning Commission will introduce the item on the agenda and ask staff to present the staff report.
2. The Planner assigned to the file will present the staff report on the item. The presentation will be an overview of the written staff report included in the agenda packet, which is posted on the City's website by the end of the day on the Friday before the meeting.
3. The members of the Planning and Zoning Commission may ask staff questions about the request itself or staff's recommendation, but they will not discuss the request prior to obtaining input from the public.
4. The Chair of the Planning and Zoning Commission will then open the public hearing on the request and ask if anyone would like to speak to the Commission.
5. The applicant or his or her designated agent is usually given the courtesy of speaking first to outline the proposal and/or clarify any information presented by staff. The applicant may speak at this time or wait until others have spoken.
6. The public hearing is then opened to the public to voice their support, opposition or to ask questions about the proposal. Please write your name and address on the sign-in sheet, step up to the podium, speak clearly, state both your first and last names and your address, then your comments. Speaking over the microphone rather than directly into it will provide the best audio quality. Also, please avoid tapping or banging the podium, as the microphone amplifies the sound. Your comments as well as any materials distributed to the Planning and Zoning Commissioners at this time will be made part of the public record. If you would prefer to provide written materials to staff at the beginning of the meeting, we will distribute the materials to the Commission for you.
7. Please be respectful of the Planning and Zoning Commissioners, staff and others speaking on the request. Personal attacks against the applicant or others, clapping/cheering or booing speakers is not acceptable. Staff and the applicant will only respond to questions from the Planning and Zoning Commissioners, not questions directly from those speaking at the public hearing.
8. Everyone who wishes to speak will be given a chance to speak; however, at larger public hearings, the Chair may ask speakers to limit their time at the podium to five minutes, not repeat previous testimony/comments and only speak once. Members of the Planning and Zoning Commission may ask questions of those speaking, but may also listen and deliberate after the hearing is closed.
9. After everyone in the audience wishing to speak has given his or her comments, the Chair will close the public hearing portion for the agenda item. No additional comments from the public are allowed after the hearing has been closed. At this point, the Chair will ask staff if they have any additional information or final comments.
10. The Planning and Zoning Commissioners will then discuss the proposal. They may ask staff or the applicant additional questions or for clarification of items stated during the public hearing. At the conclusion of the discussion, the Commission will make its recommendation or decision.





This map is for reference purpose only and is not intended as a survey or accurate representation of all map features.

## STAFF REPORT

Application for: **Zoning Change**

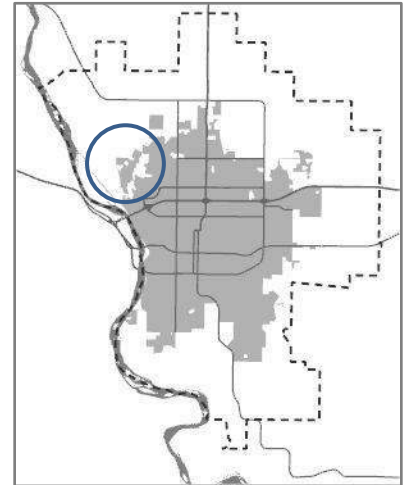
Agenda Item # 2

April 27, 2022

Project ID: **ZC2022-005**

### Project Summary

<i>Title:</i>	Tract 24A and part of Tract 24B, Section 24, T139N-R81W/West Hay Creek Township
<i>Status:</i>	Planning & Zoning Commission – Consideration
<i>Owner(s):</i>	Santa Fe, LLP
<i>Project Contact:</i>	Landon Niemiller, Swenson, Hagen and Co.
<i>Location:</i>	Northwest of Bismarck, west of Tyler Parkway at the western terminus of Del Rio Drive.
<i>Project Size:</i>	10.48 Acres
<i>Request:</i>	Rezone property in anticipation of low-density residential development



### Site Information

Existing Conditions		Proposed Conditions	
<i>Number of Lots:</i>	2 parcels	<i>Number of Lots:</i>	2 parcels
<i>Land Use:</i>	Undeveloped	<i>Land Use:</i>	Single or Two-Family Residential
<i>Future Land Use:</i>	Low Density Residential	<i>Future Land Use:</i>	Low Density Residential
<i>Zoning:</i>	A – Agricultural	<i>Zoning:</i>	R10 – Residential
<i>Uses Allowed:</i>	A – Agriculture	<i>Uses Allowed:</i>	R10 – Single and two-family residential
<i>Max Density:</i>	A – 1 unit / 40 acres	<i>Max Density:</i>	R10 – 10 units / acre

### Property History

<i>Zoned:</i>	N/A	<i>Platted:</i>	N/A	<i>Annexed:</i>	N/A
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### Staff Analysis

Santa Fe, LLP is requesting approval of a zoning change from the A – Agricultural zoning district to the R10 – Residential zoning district for Tract 24A

and part of Tract 24B, Section 24, T139N-R81W/West Hay Creek Township.

(continued)

Adjacent uses include single family residential to the east and southeast, vacant land zoned for single-family residential to the south, and the Missouri River bluffs to the west with rural residential below.

The property is identified in the Future Land Use Plan of the 2014 Growth Management Plan, as amended, as Low Density Residential (LDR). The requested R10 – Residential zoning district conforms to this land use designation.

The land proposed for rezoning has never been platted and is not currently within the city limits, and no request for subdivision or annexation has been submitted. Approval of a plat and annexation would be required prior to any development on this site.

Due to the proximity of steep slopes, geotechnical study may be necessary to determine slope stability and the potential need for development restrictions to prevent subsidence. This would be conducted in conjunction with a subdivision process.

#### **Required Findings of Fact (relating to land use)**

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development

allowed by the new zoning classification at the time the property is developed;

4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

#### **Staff Recommendation**

Based on the above findings, staff recommends scheduling a public hearing for the zoning change from the A – Agricultural zoning district to the R10 – Residential zoning district for Tract 24A and part of Tract 24B, Section 24, T139N-R81W/West Hay Creek Township.

#### **Attachments**

1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Proposed Zoning Change Map

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*Staff report prepared by:* Daniel Nairn, AICP, Senior Planner  
701-355-1854 | [dnairn@bismarcknd.gov](mailto:dnairn@bismarcknd.gov)

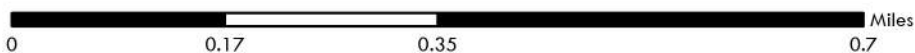
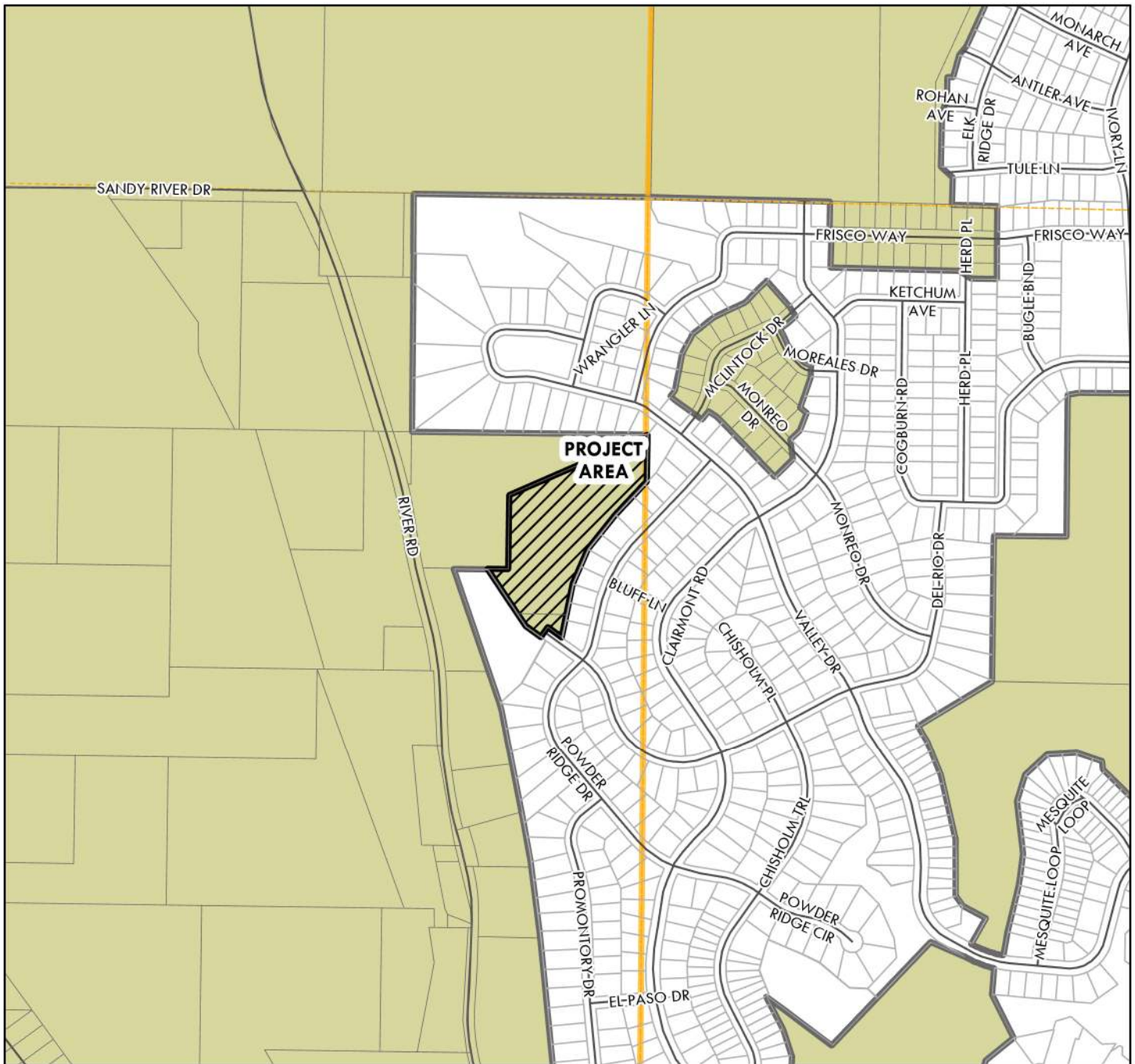




# Location Map

WEST HAY CREEK TWP, PT TRACT 24A & 24B

ZC2022-005



City Limits

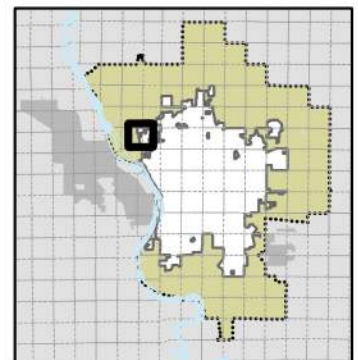


Bismarck ETA Jurisdiction

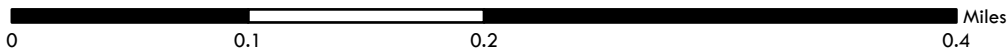
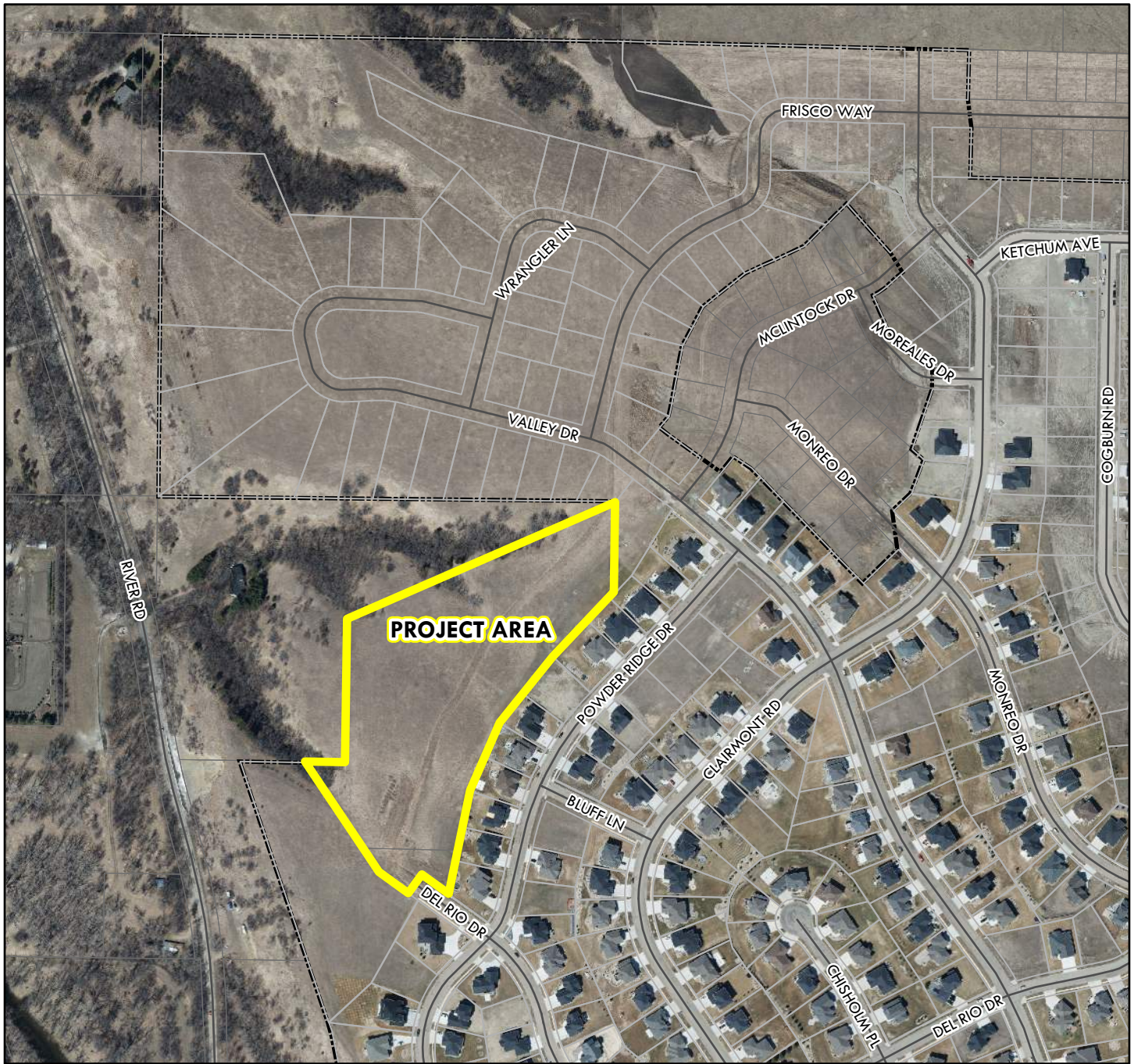
City of Bismarck  
Community Development Department  
Planning Division  
March 30, 2022 (HLB)

*Section, township, and  
range indicated in orange*

*This map is for representational use only and does not represent a survey.  
No liability is assumed as to the accuracy of the data delineated hereon.*





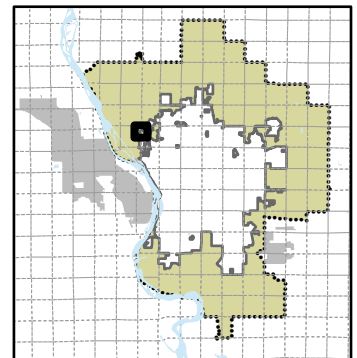


City Limits    Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

City of Bismarck  
Finance Department  
IT/GIS Division  
April 20, 2022

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## Zoning and Plan Reference Map

ZC2022-005

WEST HAY CREEK TWP, PT TRACT 24A & 24B

### Zoning Districts

<b>A</b>	Agriculture
<b>RR</b>	Rural
<b>R5</b>	Residential
<b>RMH</b>	Manufactured Home Residential
<b>R10</b>	Residential
<b>RM</b>	Residential Multifamily
<b>RT</b>	Residential (Offices)
<b>HM</b>	Health and Medical
<b>CA</b>	Commercial
<b>CG</b>	Commercial
<b>MA</b>	Industrial
<b>MB</b>	Industrial
<b>PUD</b>	Planned Unit Development
<b>DC</b>	Downtown Core
<b>DF</b>	Downtown Fringe

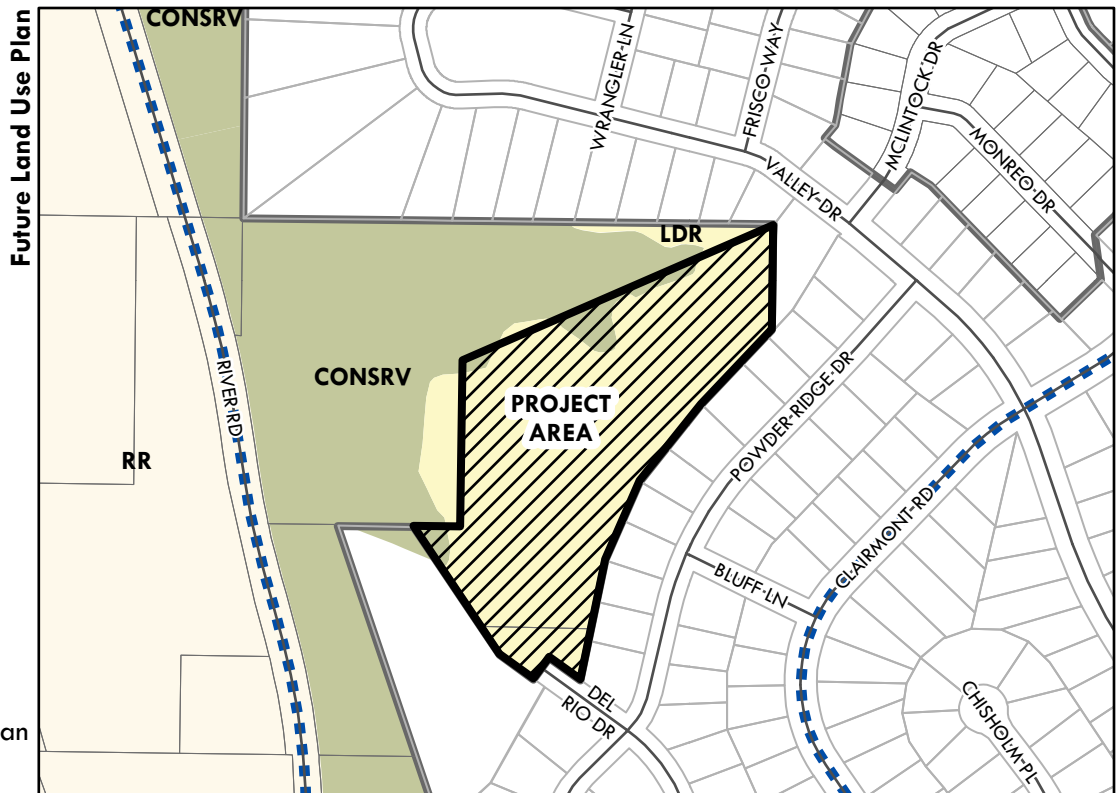
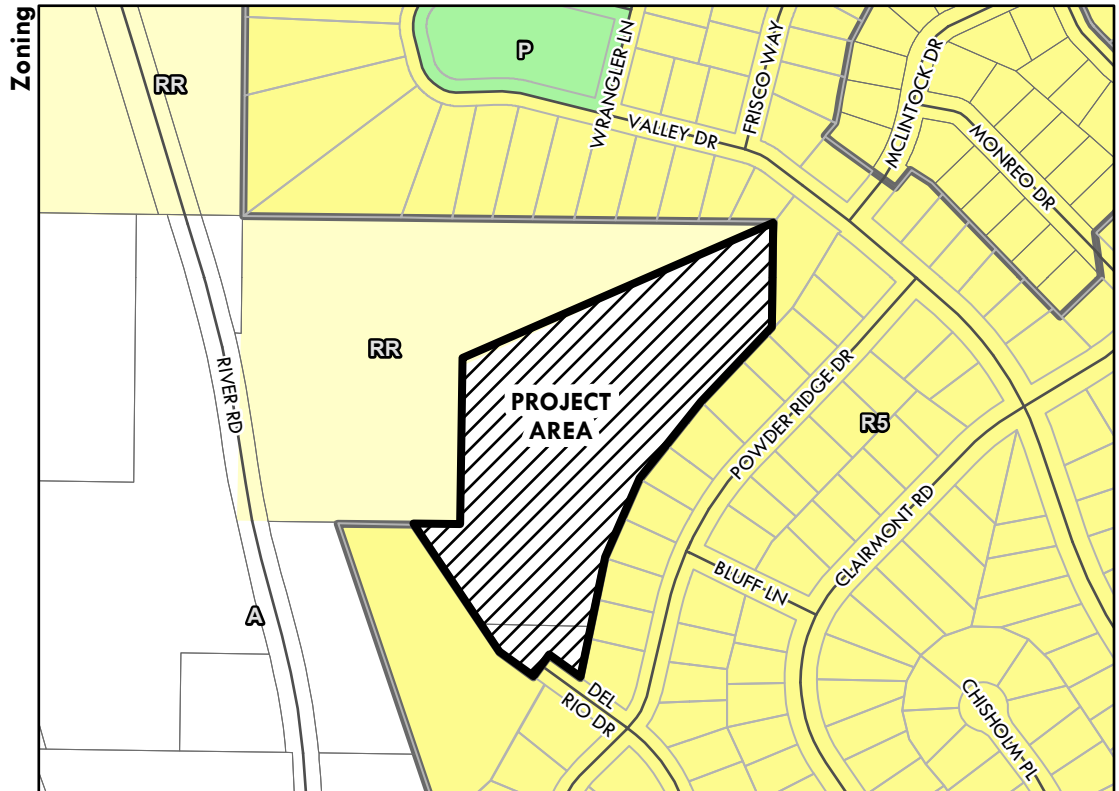
### Future Land Use Plan

<b>CONSRV</b>	Conservation
<b>BP</b>	Business Park
<b>C</b>	Commercial
<b>C/MU</b>	Commercial/ Mixed Use
<b>CIVIC</b>	Civic
<b>HDR</b>	High Density Residential
<b>I</b>	Industrial
<b>LDR</b>	Low Density Residential
<b>MDR</b>	Medium Density Residential
<b>MDR-/MU</b>	Medium Density Residential/ Mixed Use
<b>O/MU</b>	Office/ Mixed Use
<b>RR-C</b>	Clustered Rural Residential
<b>RR</b>	Standard Rural Residential
<b>UR</b>	Urban Reserve

### Fringe Area Road Master Plan

- ● ● Future Arterial Road
- ■ ■ Future Collector Road

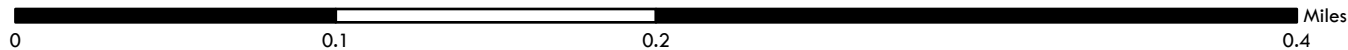
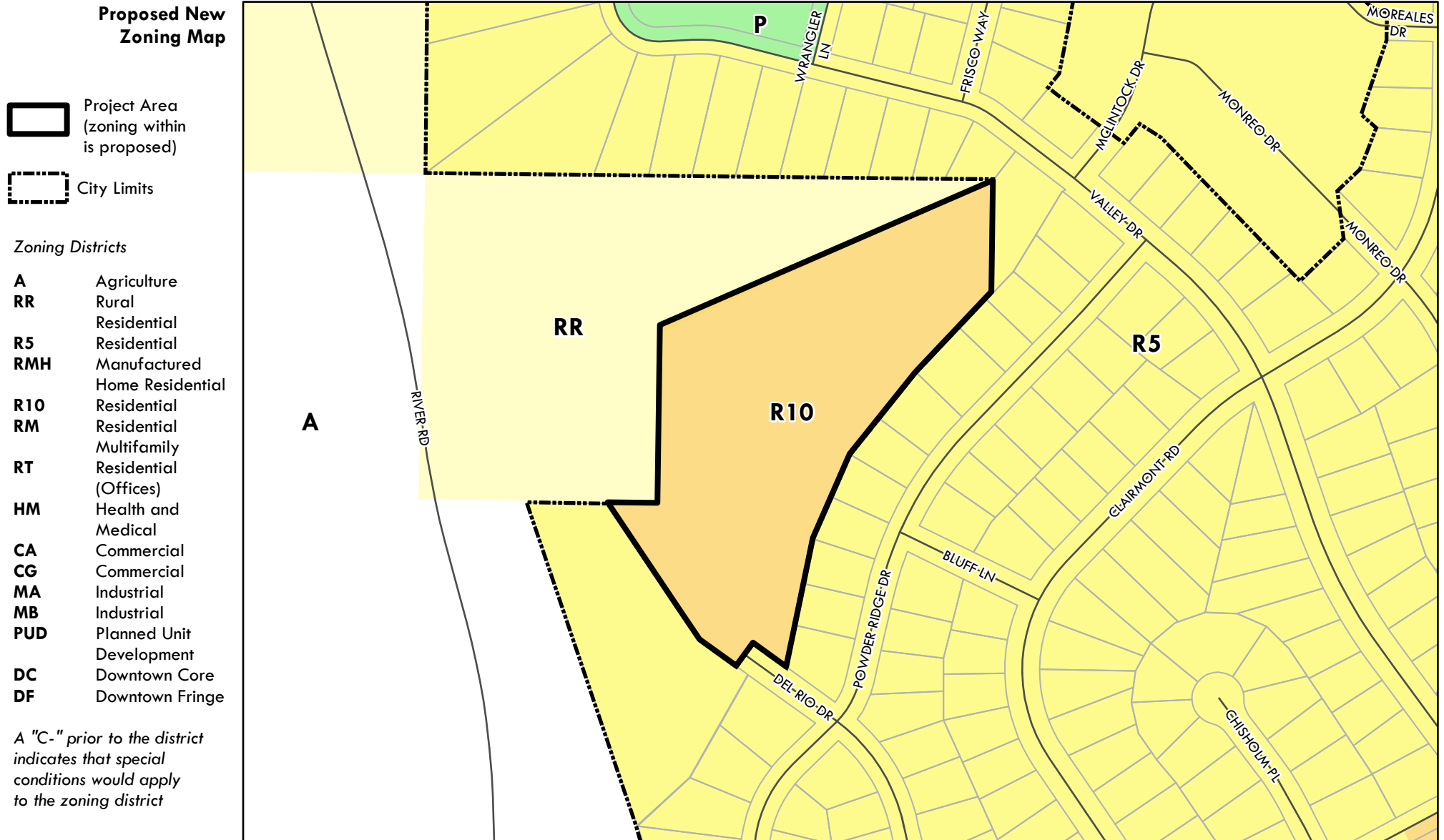
0 0.05 0.1 0.2 Miles



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City of Bismarck  
Community Development Dept.  
Planning Division  
April 20, 2022



## STAFF REPORT

Application for: **Zoning Change**

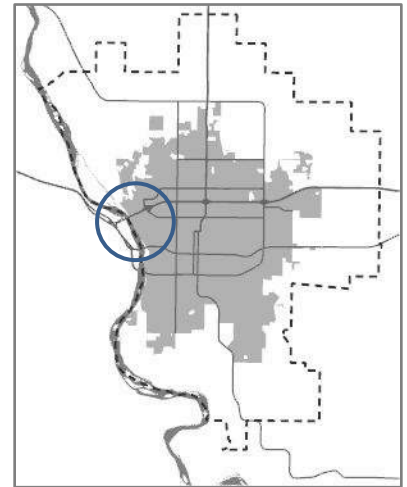
Agenda Item # 3

April 27, 2022

Project ID: **ZC2022-006**

### Project Summary

<i>Title:</i>	Municipal Fourth Addition - being replatted as Municipal Fourth Addition First Replat
<i>Status:</i>	Planning & Zoning Commission – Consideration
<i>Owner(s):</i>	City of Bismarck (current) Denizen Properties, LLC (partial future)
<i>Project Contact:</i>	Nic Cullen, P.E., Houston Engineering
<i>Location:</i>	In northwest Bismarck, east of River Road, west of Schaffer Street, along the south side of Edwards Avenue
<i>Project Size:</i>	23.4 acres
<i>Request:</i>	Rezone property for a variety of commercial recreation and other related general uses.



### Site Information

Existing Conditions		Proposed Conditions	
<i>Number of Lots:</i>	2 lots in 1 block	<i>Number of Lots:</i>	3 lots in 1 block
<i>Land Use:</i>	Undeveloped and municipal water infrastructure	<i>Land Use:</i>	Commercial Recreation, Commercial and municipal water infrastructure
<i>Future Land Use:</i>	Already zoned. Not in Future Land Use Plan	<i>Future Land Use:</i>	Already zoned. Not in Future Land Use Plan
<i>Zoning:</i>	P – Public Use	<i>Zoning:</i>	P – Public Use
<i>Uses Allowed:</i>	P – Parks, open space, stormwater facilities, and other public uses	<i>Uses Allowed:</i>	P – Parks, open space, stormwater facilities, and other public uses PUD – Uses specified in PUD
<i>Max Density:</i>	P – N/A	<i>Max Density:</i>	P – N/A PUD – Density specified in PUD

### Property History

<i>Zoned:</i>	Pre-1980	<i>Platted:</i>	04/2010	<i>Annexed:</i>	Pre-1980
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(continued)



**Staff Analysis**

The City of Bismarck and Denizen Properties, LLC are requesting approval of a zoning change from the P – Public zoning district to the P – Public and PUD – Planned Unit Development zoning district for, Municipal Fourth Addition - being replatted as Municipal Fourth Addition First Replat.

Adjacent uses include developing commercial recreation and an outdoor sports arena to the north, Bismarck State College to the east, BNSF Railroad right of way to the south, and parks and open space to the west across River Road adjacent to the Missouri River.

The City of Bismarck has conditionally approved the sale of portions of this property to be developed as a commercial recreation facility (rock climbing facility) and other potential commercial recreation and general uses. The proposed zoning change would retain P – public zoning for the portion of the property the City will retain where existing municipal water infrastructure (underground storage tanks) is located. A public hearing for a minor subdivision final plat will be held in conjunction with the public hearing for this proposed zoning change.

**Required Findings of Fact (relating to land use)**

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and

programs to serve any development allowed by the new zoning classification at the time the property is developed;

4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

**Staff Recommendation**

Based on the above findings, staff recommends scheduling a public hearing for the zoning change from the P – Public zoning district to the P – Public and PUD – Planned Unit Development zoning district for Municipal Fourth Addition - being replatted Municipal Fourth Addition First Replat.

**Attachments**

1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Proposed Zoning Change Map
5. PUD Statement

(continued)

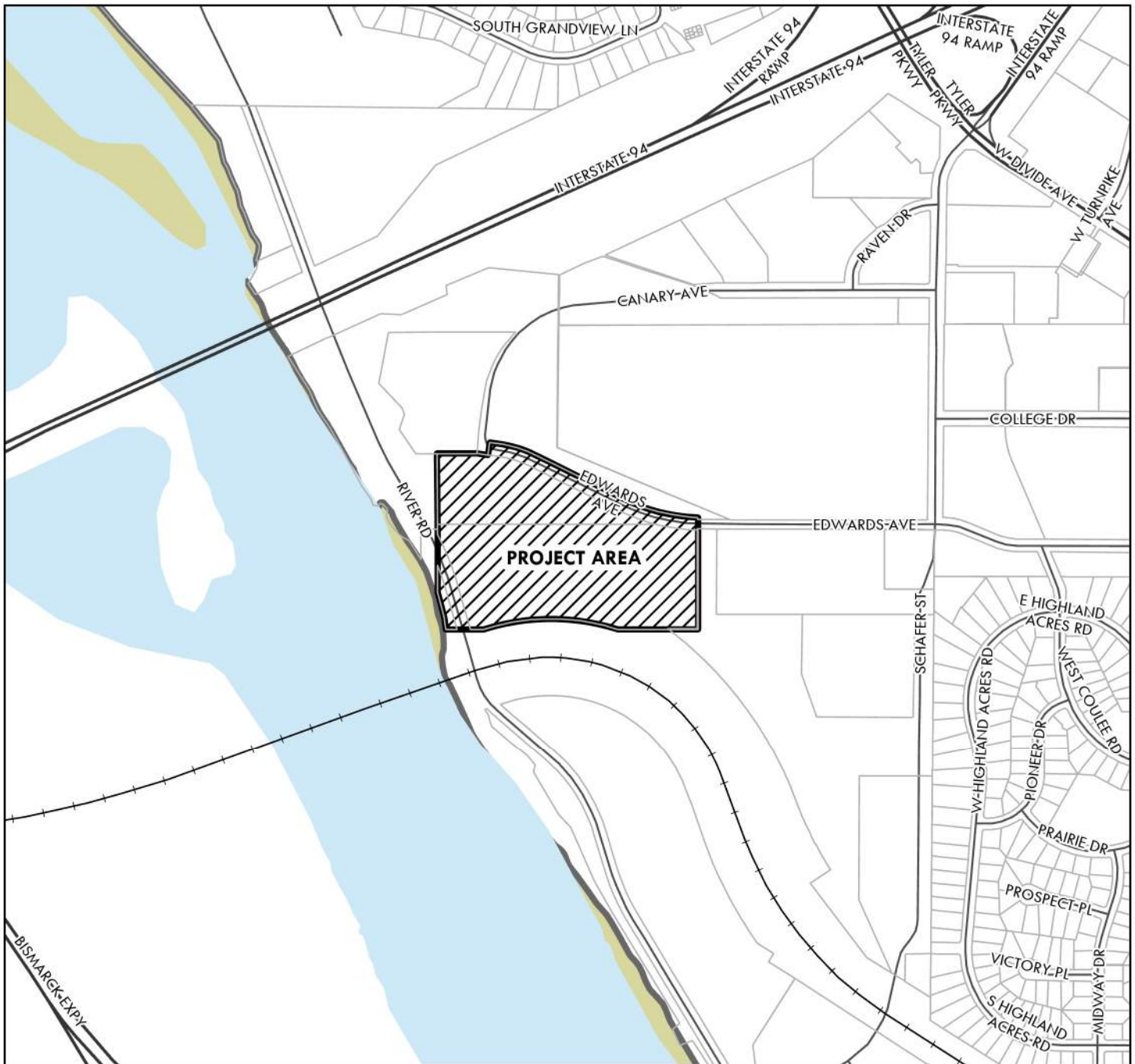
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*Staff report prepared by:* Will Hutchings, AICP, Senior Planner  
701-355-1850 | [whutchings@bismarcknd.gov](mailto:whutchings@bismarcknd.gov)



**Location Map**  
MUNICIPAL FOURTH ADDITION FIRST REPLAT

MPLT2022-006  
ZC2022-006



City Limits



County Outside ETA

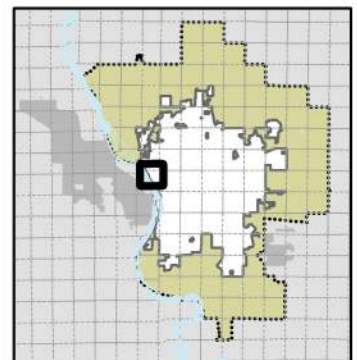


Bismarck ETA Jurisdiction

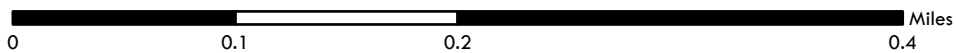
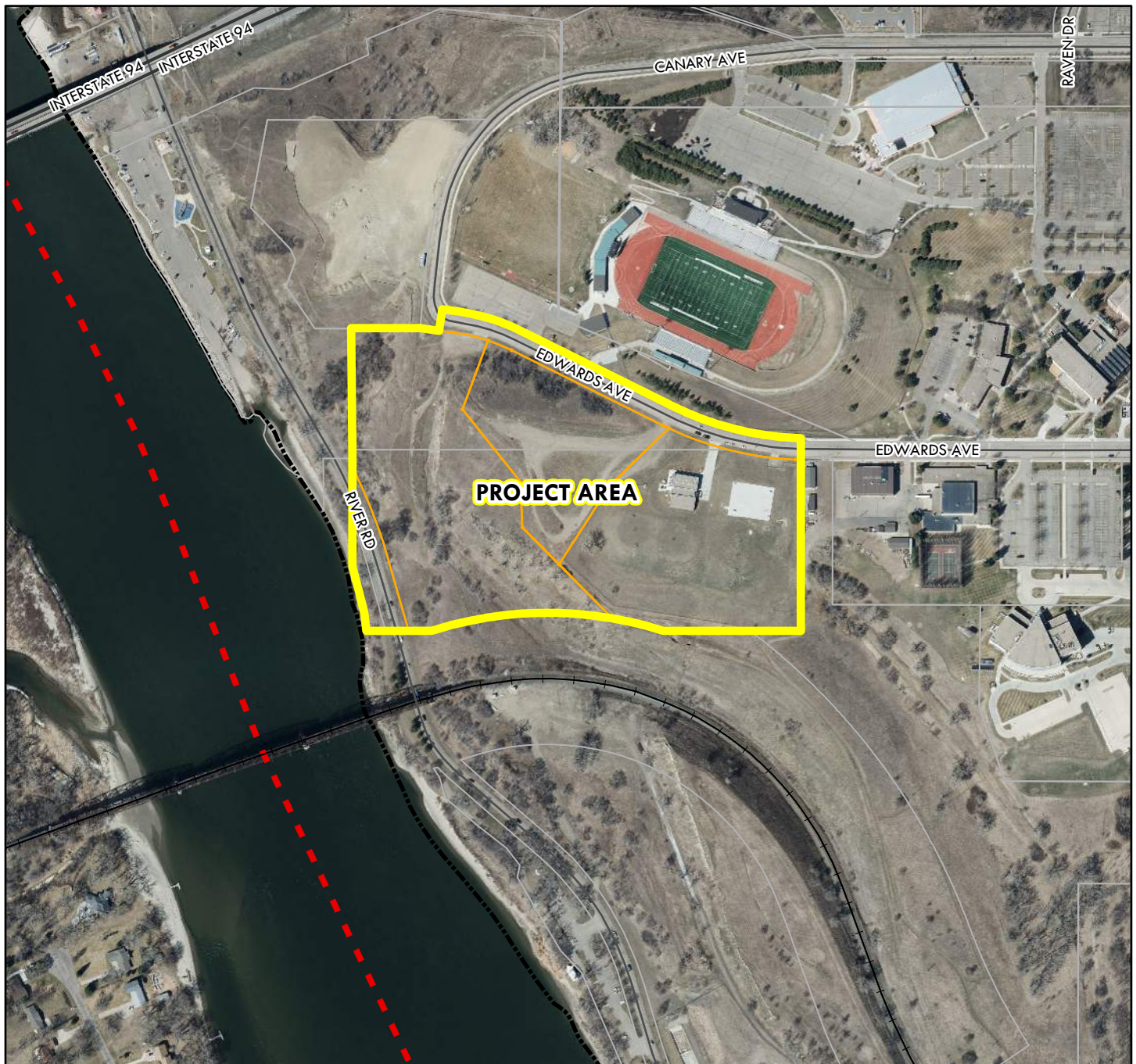
*Section, township, and  
range indicated in orange*

City of Bismarck  
Community Development Department  
Planning Division  
March 31, 2022 (HLB)

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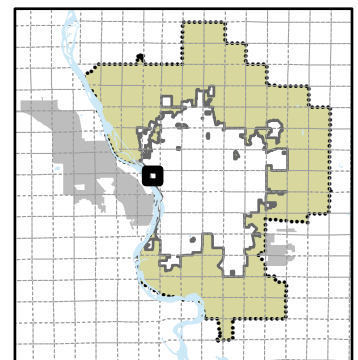


 City Limits     Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

City of Bismarck  
Finance Department  
IT/GIS Division  
April 21, 2022

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# Zoning and Plan Reference Map

MUNICIPAL FOURTH ADDITION FIRST REPLAT

MPLT2022-006  
ZC2022-006

## Zoning Districts

<b>A</b>	Agriculture
<b>RR</b>	Rural
	Residential
<b>R5</b>	Residential
<b>RMH</b>	Manufactured
	Home Residential
<b>R10</b>	Residential
<b>RM</b>	Residential
	Multifamily
<b>RT</b>	Residential
	(Offices)
<b>HM</b>	Health and
	Medical
<b>CA</b>	Commercial
<b>CG</b>	Commercial
<b>MA</b>	Industrial
<b>MB</b>	Industrial
<b>PUD</b>	Planned Unit
	Development
<b>DC</b>	Downtown Core
<b>DF</b>	Downtown Fringe

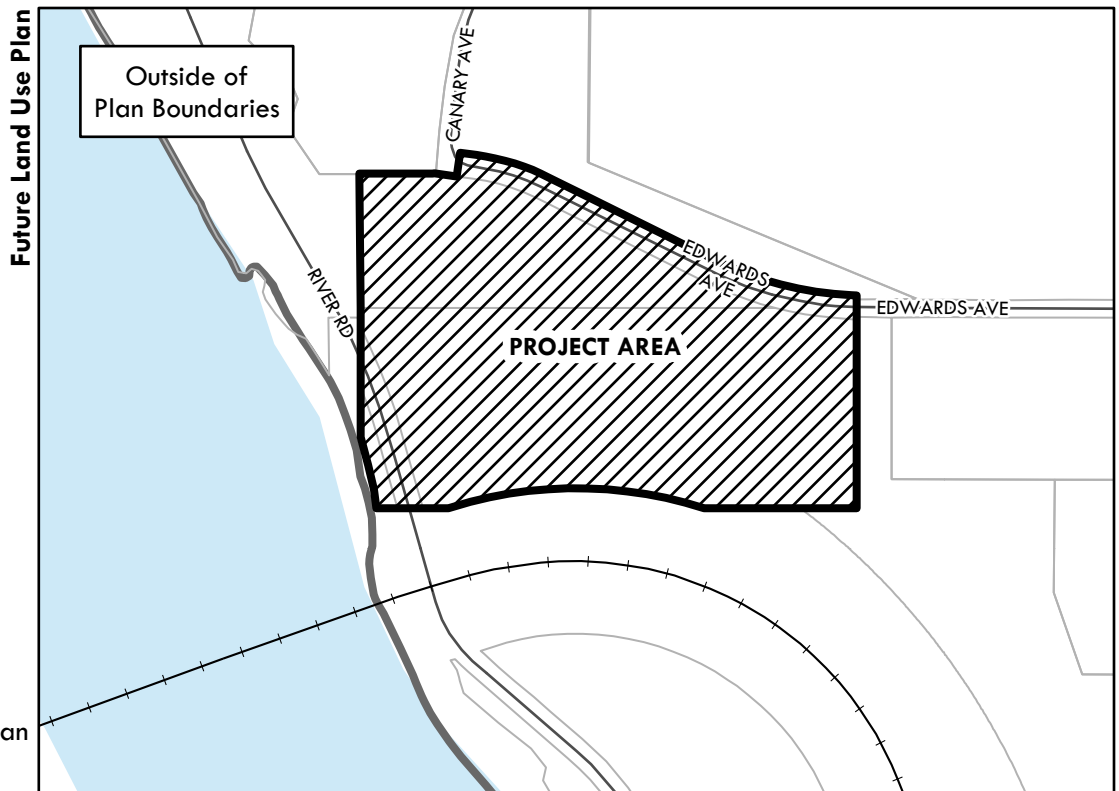
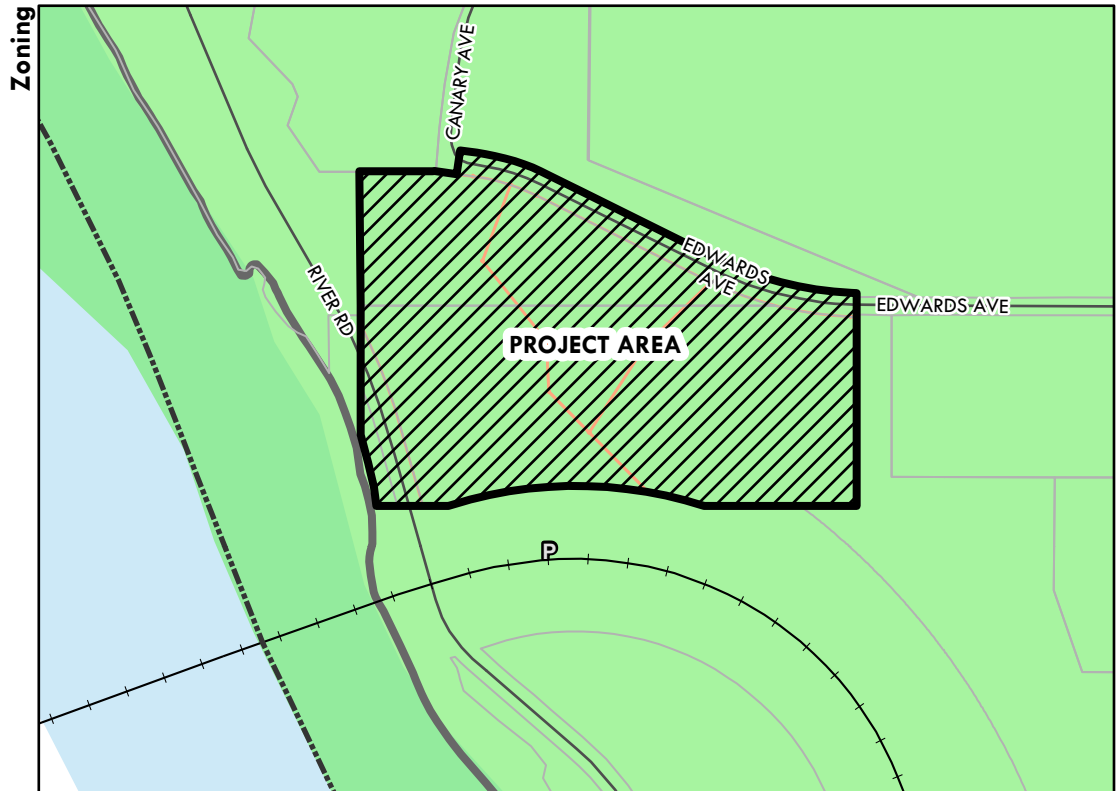
## Future Land Use Plan

<b>CONSRV</b>	Conservation
<b>BP</b>	Business Park
<b>C</b>	Commercial
<b>C/MU</b>	Commercial/ Mixed Use
<b>CIVIC</b>	Civic
<b>HDR</b>	High Density
	Residential
<b>I</b>	Industrial
<b>LDR</b>	Low Density
	Residential
<b>MDR</b>	Medium Density
	Residential
<b>MDR- /MU</b>	Medium Density Residential/ Mixed Use
<b>O/MU</b>	Office/ Mixed Use
<b>RR-C</b>	Clustered Rural
	Residential
<b>RR</b>	Standard Rural
	Residential
<b>UR</b>	Urban Reserve

## Fringe Area Road Master Plan

- ● ● Future Arterial Road
- ■ ■ Future Collector Road

0 0.05 0.1 0.2 Miles



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City of Bismarck  
Community Development Dept.  
Planning Division  
April 21, 2022

# **PUD STATEMENT**

## **MUNICIPAL 4<sup>TH</sup> ADDITION REPLAT**

**To:** City of Bismarck Community Development Division  
**From:** Michael H. Gunsch, PE, CFM, Senior Project Manager  
**Subject:** PUD Statement for Replat and Intended Uses  
**Date:** March 23, 2022

### **PLANNED UNIT DEVELOPMENT PROPOSAL**

The Municipal Addition 4<sup>th</sup> Addition is owned by the City of Bismarck, who is seeking to sell a portion of this property to allow private urban development. The Denizen Properties Group has negotiated a purchase agreement for a portion of this property, based on their continuing due diligence process, which includes replating and rezoning via the attached draft Planned Unit Development Ordinance (PUD). The intended uses align with community based recreational, entertainment (both indoor and outdoor) activities, as well as opportunities for tourism and economic development on the Missouri River corridor. This PUD will be modified via internal staff review by the Community Development, followed by public hearings at the City Planning Commission and City Commission.

The replat creates three lots from the single parcel designated for the following uses:

#### **LOT 1**

The City of Bismarck will retain this lot and continue to use it as part of their municipal water supply system. Lot 1 will, however, be converted from its undeveloped state, via landscaping and tree planting, to create a designated buffer area. Access to this lot will be provided via an access easement through Lot 2 to an existing gated fence entrance, which is provided for on the replat. Lot 1 remains P-Public; however, is included here due to the designated buffer zone and access.

#### **LOT 2**

This lot is scheduled for the initial site development. This includes constructing a building to house the Dakota Climbing Company, which is an indoor recreational facility. A future building on this lot is anticipated to be constructed that will expand offerings of the initial facility or other complimentary uses authorized under PUD. Access to this lot will be from Edwards Avenue and given topography the building will be located along the bluff line overlooking the river. The view from this facility is exceptional and will be integrated into the facility design.

#### **LOT 3**

This lot is part of the future site development with access from Canary Avenue and River Road. There will be no public right-of-way provided through this lot. The potential development opportunities are numerous and will be defined as those allowed under the PUD. Given its location it is exceptionally positioned to provide uses complementary to those on Lot 2, the Bismarck Community Bowl and more importantly the Missouri River economic and recreational corridor. Several unique features included in the PUD include and amphitheater, a convention hotel-motel complex along with access to recreational facilities along the Missouri River. While the final uses remain to be determined the PUD is framed to allow for features that will serve the community, its citizens and visitors.



## STAFF REPORT

Agenda Item # 4

April 27, 2022

Application for: **Zoning Change**

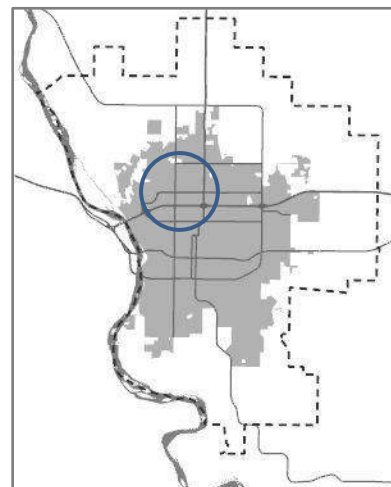
Project ID: ZC2022-002

**Major Subdivision Final Plat**

FPLT2022-002

### Project Summary

<i>Title:</i>	Boden Addition
<i>Status:</i>	Planning & Zoning Commission – Public Hearing
<i>Owner(s):</i>	Ron and Ruth Knutson
<i>Project Contact:</i>	Landon Niemiller, Swenson, Hagen & Co.
<i>Location:</i>	In north Bismarck, on the west side of North Washington Street and the south side of East Lasalle Drive (part of the W1/2 of Section 16, T139N-R80W/City Lands and a replat of Lots 2 and 3, Block 1 and Lot 4, Block 2, Boulder Ridge Fifth Addition)
<i>Project Size:</i>	20.0 Acres
<i>Request:</i>	Plat and rezone for development of small-scale office buildings and single and two-family residential



### Site Information

Existing Conditions		Proposed Conditions	
<i>Number of Lots:</i>	2 parcels and 3 lots	<i>Number of Lots:</i>	52 Lots in 1 Block
<i>Land Use:</i>	Undeveloped	<i>Land Use:</i>	Small-scale offices, two-family residential and single-family residential
<i>Future Land Use:</i>	Already zoned. Not in Future Land Use Plan	<i>Future Land Use:</i>	Already zoned. Not in Future Land Use Plan
<i>Zoning:</i>	A – Agricultural R5 – Residential	<i>Zoning:</i>	R5 – Residential R10 – Residential Conditional RT – Residential
<i>Uses Allowed:</i>	A – Agriculture R5 – Single-family residential	<i>Uses Allowed:</i>	R5 – Single-family residential R10 – Single and two-family residential Conditional RT – Offices and multi-family residential
<i>Max Density:</i>	A – 1 unit / 40 acres R5 – 5 units / acre	<i>Max Density:</i>	R5 – 5 units / acre R10 – Single and two-family residential Conditional RT – 30 units / acre

(continued)

## Property History

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<i>Zoned:</i>	<i>10/2012</i>	<i>Platted:</i>	<i>04/2013</i>	<i>Annexed:</i>	<i>04/2013</i>
	<i>R5 - Residential</i>		<i>Boulder Ridge 5th</i>		

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## Staff Analysis

Ron and Ruth Knutson are requesting approval of a zoning change from the A – Agricultural and R5 – Residential zoning districts to the R5 – Residential, R10 – Residential, and Conditional RT – Residential zoning districts and a major subdivision preliminary plat for Boden Addition.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on April 15<sup>th</sup> and 22<sup>nd</sup> and 65 letters were mailed to the owners of nearby properties on April 12<sup>th</sup> (letters were sent early in anticipation of a snowstorm).

### *Review History*

A plat for this area, also titled Boden Addition, was considered by the Planning and Zoning Commission in the Spring of 2021, and a public hearing on the final plat was held on June 23, 2021, then continued to August 25, 2021, at which point the request was further continued to allow time for the developer to work with neighbors to address concerns raised at the hearing.

Because the current version of Boden Addition has been substantially altered, the previous consideration and tentative approval of Boden Addition is no longer valid, and a revised preliminary plat and zoning change were considered on March 23, 2022. The Planning and Zoning Commission called for a public hearing on this zoning change and tentatively approved this revised preliminary plat.

The primary difference in the new version of Boden Addition is the introduction of residential uses to the east side of the subdivision, which was previously all proposed for office uses. The

number of lots available for office use has been reduced from 44 to 23, and an additional 25 residential lots are now included.

### *Surrounding Context*

Adjacent uses include an elementary school to the north across East Lasalle Drive, single-family residential and stormwater detention to the east, single-family residential to the south, and an assisted living and skilled care facility to the west across North Washington Street.

The area includes three lots within Boulder Ridge 5th Addition, and unplatted land to the east of this subdivision. Portions of the area were also included on a preliminary plat for Boulder Ridge 8<sup>th</sup> Addition, which has been withdrawn by the applicant.

### *Land Uses*

The proposed development includes two distinct parts. The western portion of the subdivision, near North Washington Street, consists of small-scale offices and the eastern portion of residential uses, specifically single-family and two-family residential.

The office buildings on the western portion would be individually sited on one of 23 lots zoned Conditional RT – Residential, in a scale and arrangement similar to a residential development. The zoning district would include conditions to align with this design concept, in order to limit the impact to the surrounding neighborhood.

A draft conditional zoning ordinance is attached, including some of the following:

*(continued)*



- Minimum and maximum building sizes and heights, and prohibition of accessory structures
- Basic design standards to resemble residential construction
- Limit on the height of garage doors
- A landscaped buffer on the periphery and internal landscaping on each lot
- Lighting standards to limit light trespass
- Limits on number and size of commercial signs

The underlying zoning district of RT – Residential would allow general office or medical office uses. Commercial retail and service uses, as well as industrial uses, would not be allowed.

#### *Access and Transportation*

All access to the development would be made by private driveway loops connected to East LaSalle Drive to the north at two points. The internal roadway network and underlying utilities would be owned and managed by an association for the development. A small segment of Onyx Drive has already been dedicated and improved, and this would be partially reconstructed and revert to a private road to be managed by the association.

Each lot would include enough parking to meet the minimum requirements in the zoning ordinance. A cross-parking agreement within the association would potentially alleviate any possible strain on the parking. Parking on the private drives would be limited due to width needed for fire access and direct-access parking areas.

A 20-foot wide path with enhanced paving would be installed to connect the private roadways within Boden Addition to Basalt Drive. This is necessary to provide a secondary emergency access to Boden Addition. This was not required for the initial version reviewed in 2021 but is now

required because of the addition of residential uses into the subdivision. The path may be used by bicycles and pedestrian but will be restricted for motor vehicles.

#### *Parks and Open Space*

The inclusion of residential uses within this plat invokes the Neighborhood Parks and Open Space policy. The Bismarck Parks and Recreation Board considered a proposal by the developer to include a neighborhood park within Boden Addition. On November 16, 2021, the Board ultimately decided to continue the existing plan of locating a park for the Boulder Ridge neighborhood approximately a quarter mile to east of Boden Addition along an extension of Normandy Drive. This park would be developed with a future subdivision of currently vacant land.

#### *Other Issues*

Stormwater for the development would be collected in Lot 51 to the east, which would be owned and maintained by a private association of property owners. It is anticipated that one association would be created for Boden Addition, including both office and residential uses.

Boden Addition includes one lot zoned R5 – Residential for development of a single-family home. This lot would be disconnected from the remainder of the subdivision and would be accessed directly from Basalt Drive. Two substandard lots, Lots 49-50, would be dedicated within this plat and then transferred for combination with the adjacent residential properties to the north. They are not buildable in their present form.

The creation of any new lots in the corporate limits is subject to utility capital charges for municipal utilities. Utility capital charges are due at the latter of three points: annexation and platting; water and sewer escrow; or petition for street improvement.

*(continued)*

**Required Findings of Fact (relating to land use)***Zoning Change*

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
  2. The proposed zoning change is compatible with adjacent land uses and zoning;
  3. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;
  4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
  5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
  6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
  7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
  8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.
3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended;
  4. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP)
  5. The requirements of the neighborhood parks and open space policy have been discussed by the Bismarck Parks and Recreation District and confirmation about satisfaction of requirements is forthcoming;
  6. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
  7. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed;
  8. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development;
  9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
  10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
  11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

*Final Plat*

1. All technical requirements for approval of a final plat have been met;
2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission;

(continued)

**Staff Recommendation**

Based on the above findings, staff recommends approval of a zoning change from the A – Agricultural and R5 – Residential zoning districts to the R5 – Residential, R10 – Residential, and Conditional RT – Residential zoning districts, as outlined in the attached draft ordinance, and approval of the major subdivision final plat for Boden Addition, with the following condition:

1. A private drive and utility agreement is signed by developer prior to scheduling a public hearing with the City Commission
2. The Bismarck Parks and Recreation District confirms whether the Neighborhood Parks and Open Space

Policy would be met through the park currently proposed for the Boulder Ridge neighborhood

**Attachments**

1. Draft Conditional Zoning Ordinance
2. Location Map
3. Aerial Map
4. Zoning and Plan Reference Map
5. Proposed Zoning Map
6. Major Subdivision Final Plat
7. Major Subdivision Preliminary Plat

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*Staff report prepared by:* Daniel Nairn, AICP, Senior Planner  
701-355-1854 | [dnairn@bismarcknd.gov](mailto:dnairn@bismarcknd.gov)

## ORDINANCE NO. XXXX

First Reading	_____
Second Reading	_____
Final Passage and Adoption	_____
Publication Date	_____

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE 1986 CODE OF ORDINANCES, OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO THE BOUNDARIES OF ZONING DISTRICTS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the A – Agricultural zoning district and included in the R5 – Residential zoning district:

Lots 49 - 52, Block 1, Boden Addition

Section 2. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the R5 – Residential and A – Agricultural zoning districts and included in the R10 – Residential zoning district:

Lots 24-48, Block 1, Boden Addition

Section 3. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the R5 – Residential and A – Agricultural zoning districts and included in the Conditional RT – Residential zoning district:

Lots 1 - 23, Block 1, Boden Addition

This Conditional RT – Residential zoning district is subject to the following additional standards:

1. *Use Restrictions.* All residential uses are prohibited, including but not limited to single-family, multifamily, rowhouses, and group homes. Additionally, drive-throughs are prohibited.
2. *Building Height.* Building heights shall be limited to two (2) stories and thirty (35) feet.
3. *Building Area.* Each lot is limited to one (1) principal structure with a footprint of no less than one-thousand two hundred (1,200) square feet and no greater than four thousand five hundred (4,500) square feet. Attached garages are permitted, and up to one thousand (1,000) square feet of parking area in an attached garage to a principal structure will not count towards the maximum square footage of the building area. No accessory structures are permitted, although decks, porches, patios, and other building features are permitted.
4. *Building Design.* All buildings shall be designed in a general residential character, including a pitched roof, a front entry visible from the private street shown on the plat, and windows on the front building façade. Garage doors may be no greater than nine (9) feet in height.
5. *Parking.* Off-street parking shall be provided according to the office building classification in Section 14-03-10 (Off-Street Parking and Loading). Area within attached garages shall not be included in calculations of the required minimum off-street parking spaces, and up to three (3) spaces provided within said garages may be counted toward the required minimum off-street parking.
6. *Landscaped Buffer.* A landscaped buffer of at least twenty (20) feet in width shall be installed at the time of initial site development in compliance with all requirements of Section 14-03-11(10) as a visual screen for Lot 23, Block 1, Boden Addition.
7. *Interior Landscaping.* Each lot shall include a landscaped area of not less than fifteen (15) percent of the total lot area, excluding the area reserved as an access easement, to be planted with trees, shrubs, grass, or other cultivated vegetation

at the time of lot development. Said landscaped area must include at least one shade tree on each lot.

8. *Lighting.* All outdoor lighting fixtures shall be designed as a full cut-off fixture or have a shielding method to direct light emissions down onto the site and not shine direct illumination or glare onto adjacent properties, with the exception of low-wattage landscape lighting and up-lighting intended to highlight part of a building or landscaping; provided, that the light distribution from the fixture is effectively contained by an overhanging architectural element or landscaping element and does not shine beyond the intended target including into the sky. Private access roads may include streetlights in a matching style of up to twenty (20) feet in height.
9. *Signs.* Each lot is limited to one (1) wall sign or one (1) monument sign oriented toward a private street of Boden Addition, and one (1) wall sign oriented toward a public right-of-way. The total allowable area of signs on a lot is sixty (60) square feet. Said signs may not be internally illuminated. Additionally, one (1) sign may be permitted within each platted sign and landscape easement in compliance with all requirements of Chapter 14-03.1 (Signs) that apply to the RT – Residential zoning district.

Section 4. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

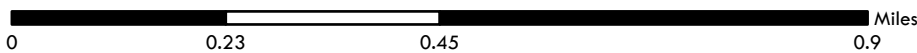
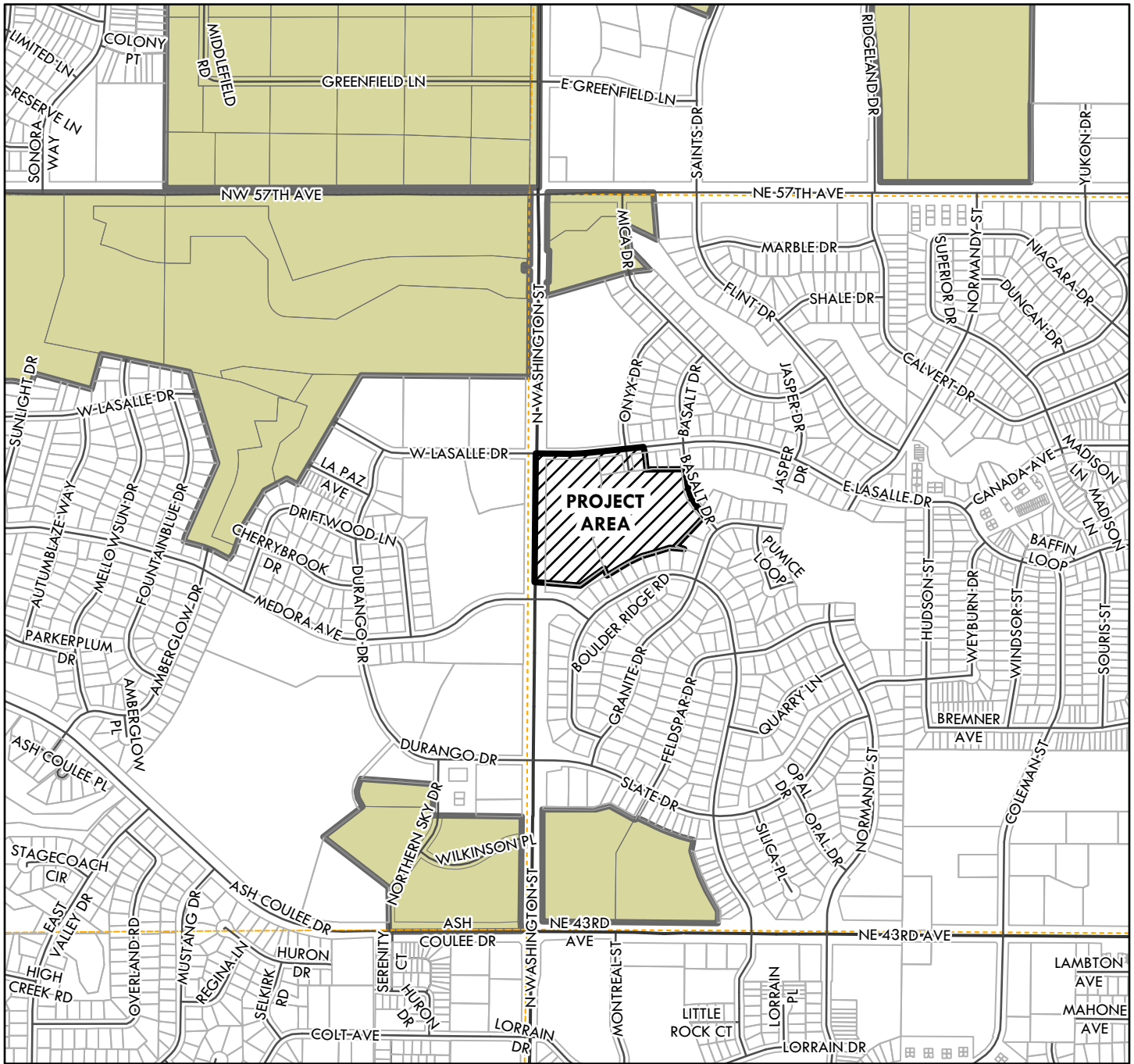
Section 5. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.



# Location Map

## BODEN ADDITION V2

FPLT2022-002  
ZC2022-002

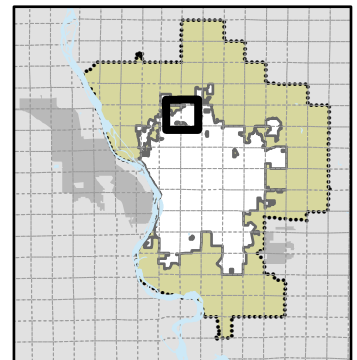


- City Limits
- Bismarck ETA Jurisdiction

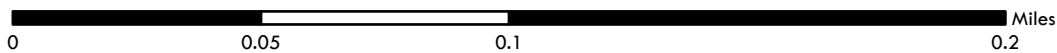
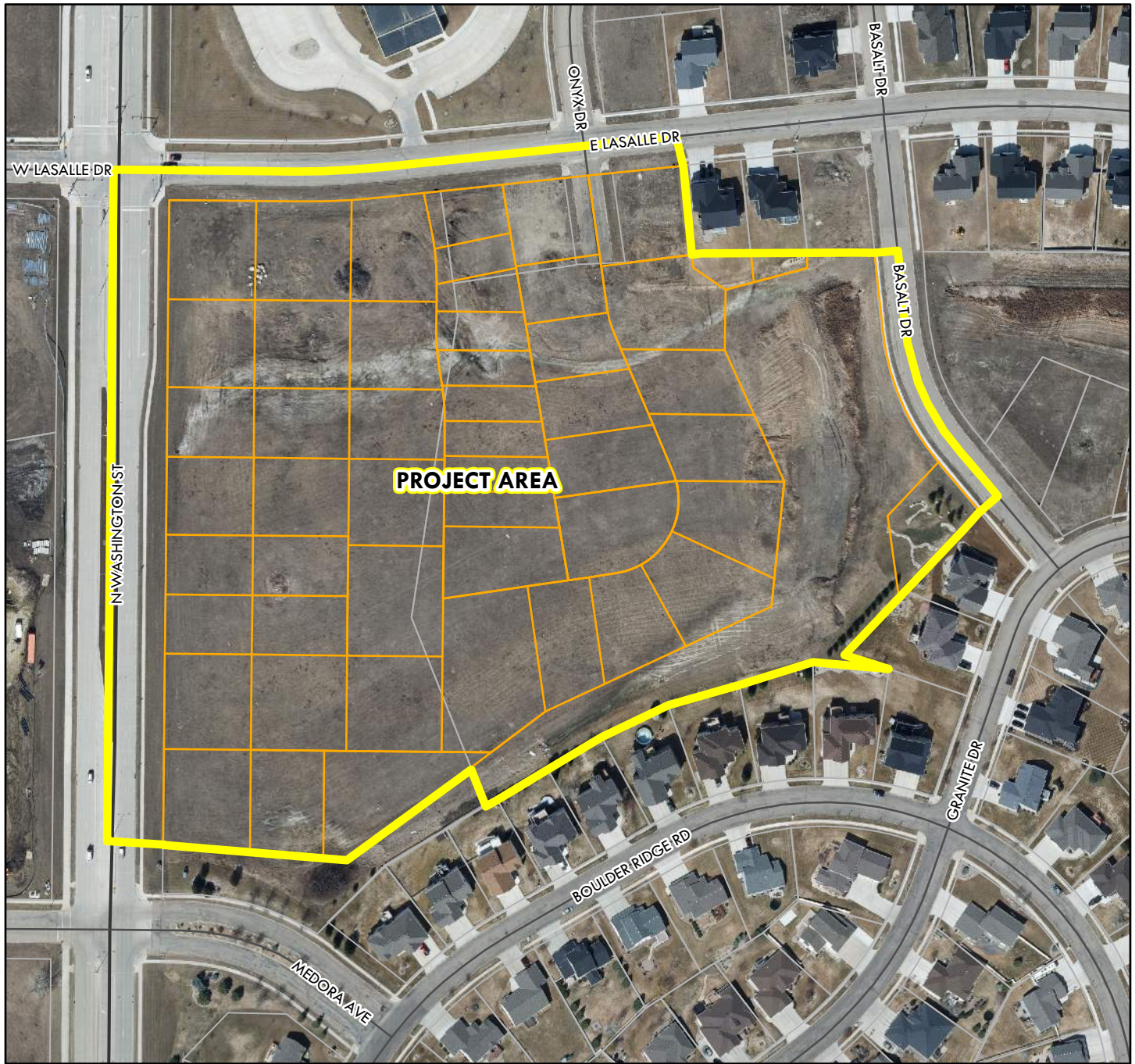
City of Bismarck  
Community Development Department  
Planning Division  
March 14, 2022 (HLB)

*Section, township, and  
range indicated in orange*

*This map is for representational use only and does not represent a survey.  
No liability is assumed as to the accuracy of the data delineated hereon.*





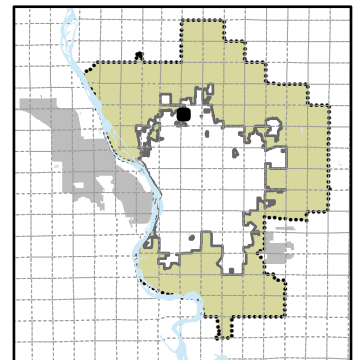


 City Limits     Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

City of Bismarck  
Finance Department  
IT/GIS Division  
March 11, 2022

*This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.*







# Zoning and Plan Reference Map

BODEN ADDITION V2

PPLT2022-002  
ZC2022-002

## Zoning Districts

<b>A</b>	Agriculture
<b>RR</b>	Rural
<b>R5</b>	Residential
<b>RMH</b>	Manufactured Home Residential
<b>R10</b>	Residential
<b>RM</b>	Multifamily
<b>RT</b>	Residential (Offices)
<b>HM</b>	Health and Medical
<b>CA</b>	Commercial
<b>CG</b>	Commercial
<b>MA</b>	Industrial
<b>MB</b>	Industrial
<b>PUD</b>	Planned Unit Development
<b>DC</b>	Downtown Core
<b>DF</b>	Downtown Fringe

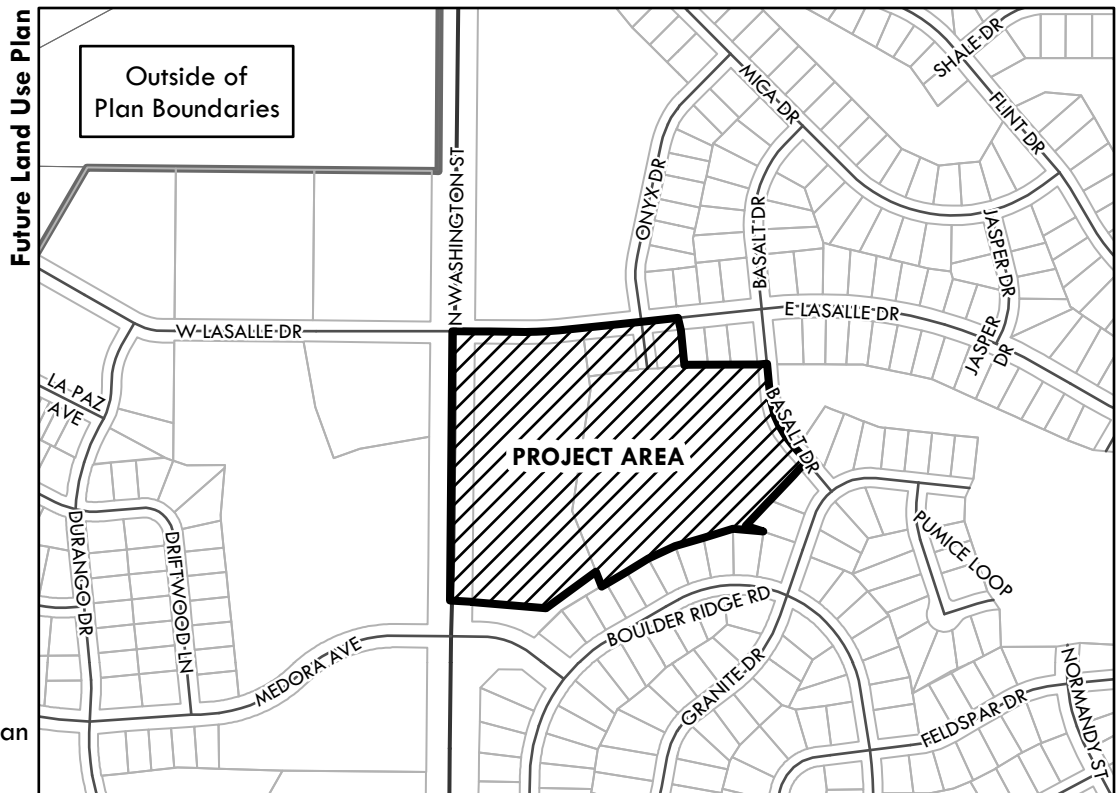
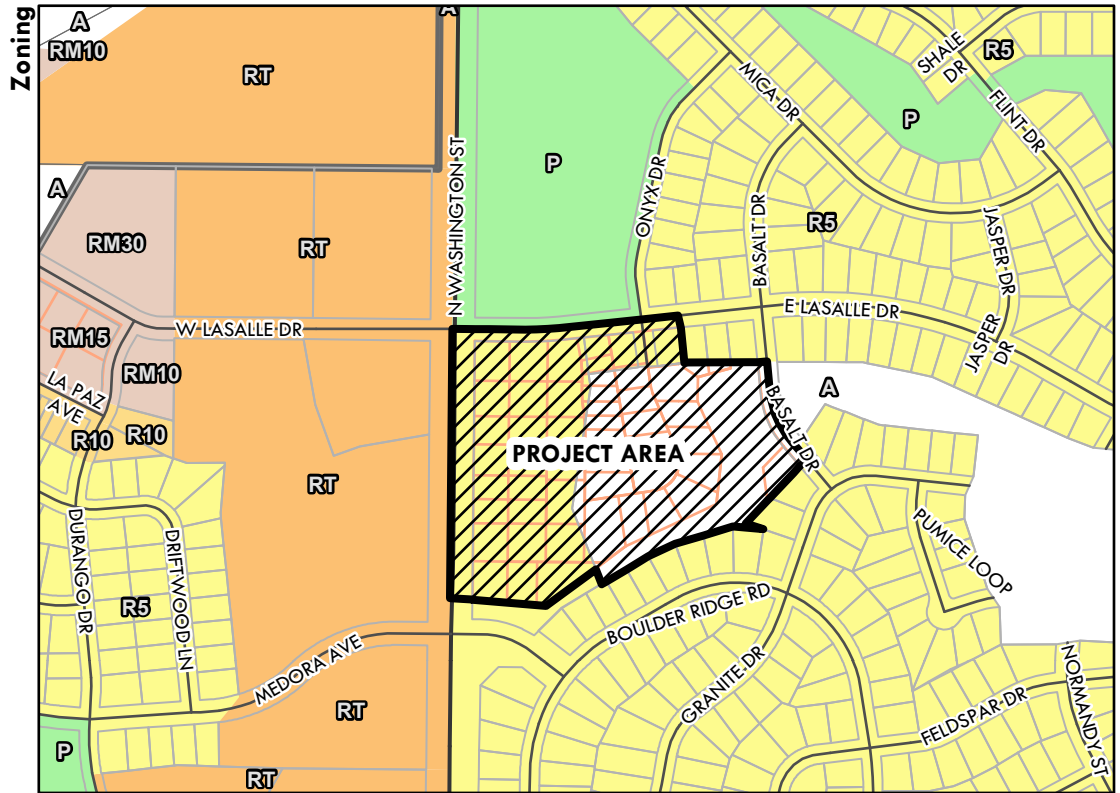
## Future Land Use Plan

<b>CONSRV</b>	Conservation
<b>BP</b>	Business Park
<b>C</b>	Commercial
<b>C/MU</b>	Commercial/ Mixed Use
<b>CIVIC</b>	Civic
<b>HDR</b>	High Density Residential
<b>I</b>	Industrial
<b>LDR</b>	Low Density Residential
<b>MDR</b>	Medium Density Residential
<b>MDR-/MU</b>	Medium Density Residential/ Mixed Use
<b>O/MU</b>	Office/ Mixed Use
<b>RR-C</b>	Clustered Rural Residential
<b>RR</b>	Standard Rural Residential
<b>UR</b>	Urban Reserve

## Fringe Area Road Master Plan

- ● ● Future Arterial Road
- ■ ■ Future Collector Road

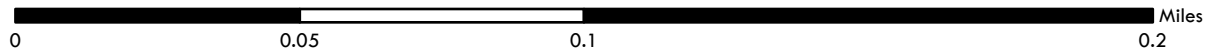
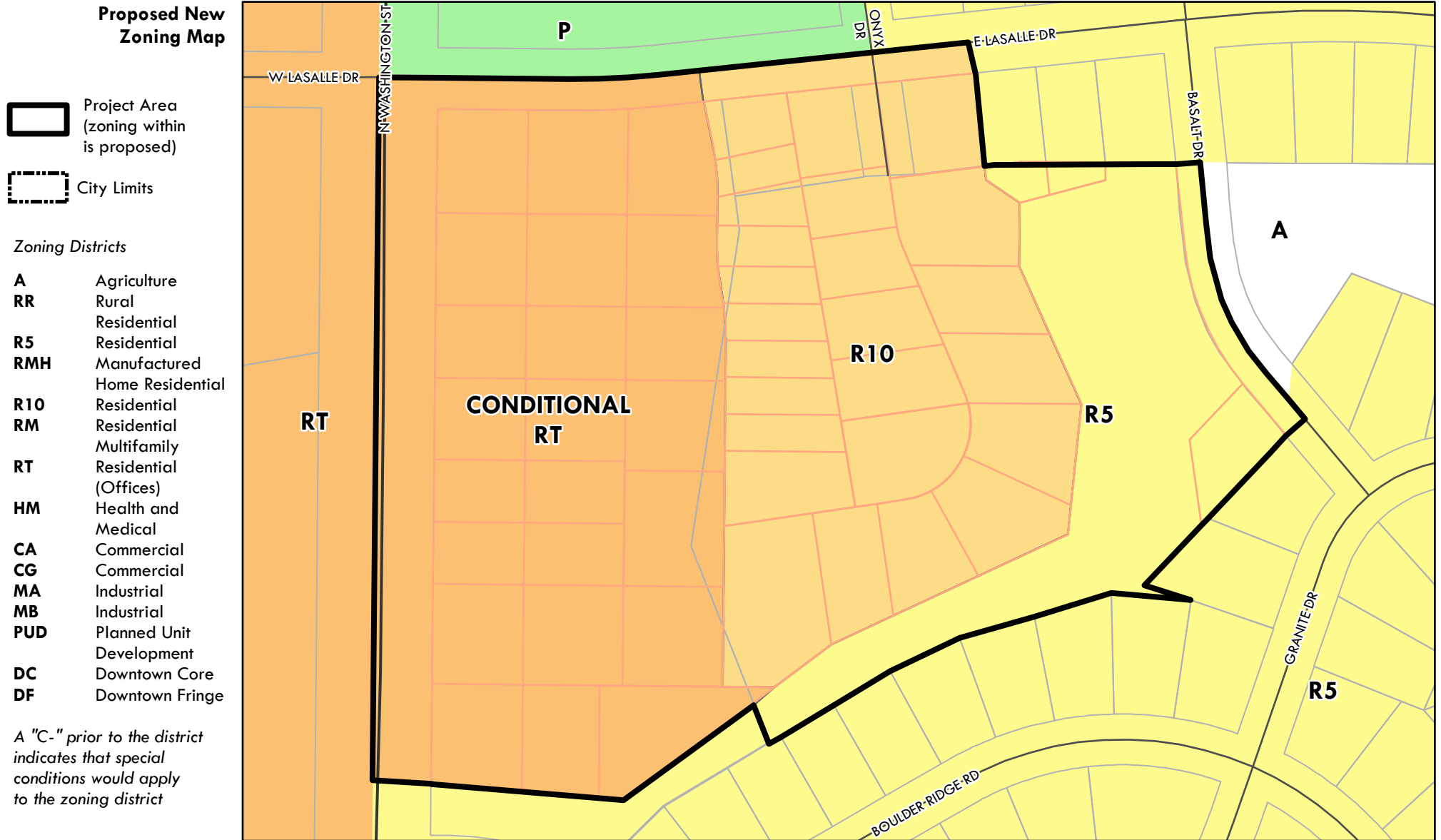
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This map is for representational use only and does not represent a survey.  
No liability is assumed as to the accuracy of the data delineated herein.



City of Bismarck  
Community Development Dept.  
Planning Division  
March 11, 2022



# BODEN ADDITION

BEING A REPLAT OF LOT 2 & 3 BLOCK 1, LOT 4 BLOCK 2  
BOULDER RIDGE FIFTH ADDITION, PART OF THE EAST 1/2 OF NORTH WASHINGTON STREET  
RIGHT-OF-WAY, PART OF THE SOUTH HALF OF LASALLE DRIVE RIGHT-OF-WAY, PART OF THE WEST  
HALF OF BASALT DRIVE RIGHT-OF-WAY & PART OF THE WEST 1/2 OF  
SECTION 16, TOWNSHIP 139 NORTH, RANGE 80 WEST

## BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

### DESCRIPTION

BEING A REPLAT OF LOT 2 & 3 BLOCK 1, LOT 4 BLOCK 2 BOULDER RIDGE FIFTH ADDITION, PART OF THE EAST 1/2 OF NORTH WASHINGTON STREET RIGHT-OF-WAY, PART OF THE SOUTH HALF OF LASALLE DRIVE RIGHT-OF-WAY, PART OF THE WEST HALF OF BASALT DRIVE RIGHT-OF-WAY & PART OF THE WEST 1/2 OF SECTION 16, TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN, BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

### DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 3 BLOCK 4 BOULDER RIDGE FIFTH ADDITION; THENCE NORTH 82 DEGREES 44 MINUTES 56 SECONDS EAST, ALONG THE BOUNDARY OF SAID BOULDER RIDGE FIFTH ADDITION, A DISTANCE OF 46.1 FEET; THENCE SOUTH 89 DEGREES 40 MINUTES 37 SECONDS EAST, ALONG SAID BOUNDARY, AND ITS EASTERLY EXTENSION, A DISTANCE OF 285.73 FEET TO THE CENTERLINE OF BASALT DRIVE RIGHT-OF-WAY; THENCE SOUTH 08 DEGREES 01 MINUTE 15 SECONDS EAST, ALONG SAID CENTERLINE, A DISTANCE OF 102.65 FEET; THENCE SOUTHEASTERLY AND TO THE LEFT, CONTINUING ALONG SAID CENTERLINE, ON A 100.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 177.49 FEET; THENCE SOUTH 39 DEGREES 59 MINUTES 11 SECONDS EAST, CONTINUING ALONG SAID CENTERLINE, A DISTANCE OF 83.72 FEET TO THE NORTHEASTERLY EXTENSION OF THE NORTHWEST LINE OF LOT 2 BLOCK 4 BOULDER RIDGE FIFTH ADDITION; THENCE SOUTH 43 DEGREES 34 MINUTES 10 SECONDS WEST, ALONG SAID EXTENSION AND SAID NORTHWEST LINE AND THE NORTHWEST LINE OF LOT 1 BLOCK 4 BOULDER RIDGE FIFTH ADDITION, A DISTANCE OF 308.8 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1; THENCE SOUTH 70 DEGREES 58 MINUTES 21 SECONDS EAST, ALONG THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 46.34 FEET TO THE BOUNDARY OF BOULDER RIDGE FIRST ADDITION; THENCE NORTH 84 DEGREES 54 MINUTES 21 SECONDS WEST, ALONG SAID BOUNDARY, A DISTANCE OF 104.39 FEET; THENCE SOUTH 74 DEGREES 08 MINUTES 33 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 206.71 FEET; THENCE SOUTH 64 DEGREES 33 MINUTES 52 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 100.40 FEET; THENCE SOUTH 58 DEGREES 21 MINUTES 58 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 83.76 FEET TO THE BOUNDARY OF LOT 1 BLOCK 4 BOULDER RIDGE FIFTH ADDITION; THENCE NORTH 11 DEGREES 35 MINUTES 03 SECONDS WEST, ALONG SAID BOUNDARY, A DISTANCE OF 50.9 FEET; THENCE SOUTH 33 DEGREES 30 MINUTES 10 SECONDS WEST, ALONG SAID BOUNDARY, A DISTANCE OF 210.38 FEET; THENCE NORTH 85 DEGREES 16 MINUTES 20 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 320.8 FEET TO THE CENTERLINE OF NORTH WASHINGTON STREET RIGHT-OF-WAY; THENCE NORTH 00 DEGREES 32 MINUTES 57 SECONDS EAST, ALONG SAID CENTERLINE, A DISTANCE OF 811.2 FEET TO THE CENTERLINE OF LASALLE DRIVE RIGHT-OF-WAY; THENCE SOUTH 89 DEGREES 28 MINUTES 00 SECONDS EAST, ALONG SAID CENTERLINE, A DISTANCE OF 248.38 FEET; THENCE EASTERLY AND TO THE LEFT, CONTINUING ALONG SAID CENTERLINE, ON A 100.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 115.35 FEET; THENCE NORTH 83 DEGREES 58 MINUTES 27 SECONDS EAST, CONTINUING ALONG SAID CENTERLINE, A DISTANCE OF 407.64 FEET TO THE NORTHERLY EXTENSION OF THE WEST LINE OF LOT 1 BLOCK 4 BOULDER RIDGE FIFTH ADDITION; THENCE SOUTH 08 DEGREES 01 MINUTE 15 SECONDS EAST, ALONG SAID NORTHERLY EXTENSION AND SAID WEST LINE, A DISTANCE OF 116.83 FEET TO THE POINT OF BEGINNING.

CONTAINING 20.01 ACRES, MORE OR LESS.

### SURVEYOR'S CERTIFICATE

I, TERRY BALZER, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE APPROVED PLAT IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON [ ] THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF; THAT ALL MONUMENTS SHOWN HEREON ARE CORRECT; THAT ALL REQUIRED MONUMENTS HAVE BEEN SET; AND THAT ALL DIMENSIONAL AND GEODETIC DETAILS ARE CORRECT.

SWENSON, HAGEN & CO. P.C.  
809 BASIN AVENUE  
BISMARCK, NORTH DAKOTA  
58504

TERRY BALZER  
PROFESSIONAL LAND SURVEYOR  
N.D. REGISTRATION NO. 3595

### APPROVAL OF CITY PLANNING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THE PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK, ON THE 2022, IN ACCORDANCE WITH LANDS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK AND REGULATIONS ADOPTED BY THE SAID PLANNING COMMISSION. IN WITNESS WHEREOF ARE SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

MICHAEL J. SCHWARTZ – CHAIRMAN

ATTEST  
BEN EHRENT – SECRETARY

### APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE PLAT, HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN THEREON, HAS APPROVED THE GROUNDS AS SHOWN ON THE APPROVED PLAT AS AN ADDITION TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS PLATING WITHIN THE BOUNDARY OF THE APPROVED PLAT. THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE \_\_\_\_ DAY OF \_\_\_\_\_, 2022.

ATTEST  
KEITH J. HUNKE – CITY ADMINISTRATOR

### APPROVAL OF CITY ENGINEER

I, GABRIEL J. SCHILL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE "BODEN ADDITION", BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA AS SHOWN ON THE PLAT.

GABRIEL J. SCHILL  
CITY ENGINEER

### OWNER'S CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT RON KNUTSON AND RUTH KNUTSON BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN HEREON HAVE CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "BODEN ADDITION", BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, AND DO SO DEDICATE AND RE-DEDICATE STREETS AS SHOWN HEREON INCLUDING ALL SEWER, CULVERTS, WATER AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HEREON OR NOT TO THE PUBLIC USE FOREVER.

THEY ALSO DEDICATE EASEMENTS TO THE CITY OF BISMARCK TO RUN WITH THE LAND, FOR GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES OR ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS UTILITY EASEMENTS.

THEY FURTHERMORE DEDICATE UNTO THE CITY OF BISMARCK "STORM WATER AND DRAINAGE EASEMENTS" TO RUN WITH THE LAND FOR THE PURPOSE OF STORM SEWER AND SURFACE WATER DRAINAGE UNDER, OVER, THROUGH AND/OR ACROSS THOSE AREAS DEDICATED HEREON AS "STORM WATER AND DRAINAGE EASEMENTS" FOR THE PURPOSE OF CONSTRUCTION, RECONSTRUCTION, REPAIR, MAINTAINING AND MAINTAINING STORM WATER MANAGEMENT FACILITIES TOGETHER WITH NECESSARY APPURTENANCES THEREOF FOR STORM WATER, STORM SEWER AND SURFACE WATER DRAINAGE AND MANAGEMENT OF SAID STORM WATER FLOW IN A MANNER THAT WILL PERMIT THE FREE AND UNOBSTRUCTED FLOW OF WATER UNDER, OVER AND/OR ACROSS THE EASEMENT AREA.

THEY FURTHERMORE GRANT ACCESS, WATERMAIN, AND SANITARY SEWER EASEMENTS TO THE LANDOWNERS OF BODEN ADDITION, THEIR TENANTS, VISITORS AND LICENSEES, SAID EASEMENT TO INCLUDE THE PAUL AND PEEBLY RIGHT FOR SAID PARTIES, THEIR TENANTS, VISITORS AND LICENSEES, IN COMMON WITH ALL OTHERS HAVING LIKE RIGHT AT ALL TIMES HEREAFTER FOR ALL PURPOSES CONNECTED WITH THE USE OF SAID PARTIES, TO PASS AND REPAIRS ALONG SAID EASEMENT AND TO HOLD SAID EASEMENT TO SAID PARTIES, THEIR HEIRS AND ASSIGNS AND APPURTENANT TO THE LAND OF SAID PARTIES. THEY ALSO GRANT SAID EASEMENT TO CONTRACTORS, OPERATE, MAINTAIN, AND REPAIR WATERMAIN AND SANITARY SEWER FACILITIES UNDER OR UPON THE REAL PROPERTY HEREINAFTER DESCRIBED. THEY ALSO DEDICATE SAID ACCESS EASEMENT TO AND FOR THE USE OF ANY GOVERNMENTAL SUBDIVISION, ITS OFFICERS AND EMPLOYEES FOR UTILITIES AND ANY OTHER GOVERNMENTAL USE OR USES IT DEEMS NECESSARY OR ADVISABLE, PROVIDED THE CITY SHALL NOT BE RESPONSIBLE IN ANY WAY TO FURNISH ANY CITY SERVICES, IF SUCH ACCESS EASEMENTS ARE NOT PROPERLY MAINTAINED OR ARE OBSTRUCTED BY THE OWNERS OF PROPERTY IN THE SUBDIVISION.

THEY FURTHERMORE GRANT AN EMERGENCY ACCESS & PEDESTRIAN ACCESS EASEMENT TO THE CITY OF BISMARCK, SAID EASEMENT SHALL BE FOR THE PURPOSES OF ADDRESS AND EXPRESS TO PROVIDE FIRE AND POLICE PROTECTION, AMBULANCES AND RESCUE SERVICES, AND WILL PROVIDE TERTIARY ACCESS TO THE LANDOWNERS OF BODEN ADDITION, THEIR TENANTS, VISITOR AND LICENSEES IN THE EVENT OF EMERGENCIES. SAID EASEMENT SHALL ALSO BE FOR THE PURPOSES OF INGRESS AND EGRESS FOR PEDESTRIAN AND NON-MOTORIZED VEHICLES. NO STRUCTURES OR SHALL BE CONSTRUCTED ON SAID EASEMENT THAT WOULD INTERFERE OR IMPAIR THE NORMAL OPERATION OF THE EASEMENT AREA. NO PARKING OF VEHICLES WITHIN THE EASEMENT SHALL BE PERMITTED.

STATE OF NORTH DAKOTA

COUNTY OF BURLEIGH

RON KNUTSON

ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2022, BEFORE ME PERSONALLY APPEARED RON KNUTSON, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES

RUTH KNUTSON

STATE OF NORTH DAKOTA

ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2022, BEFORE ME PERSONALLY APPEARED RUTH KNUTSON, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND SHE ACKNOWLEDGED TO ME THAT SHE EXECUTED THE SAME.

NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES

BEING A REPLAT OF LOT 2 & 3 BLOCK 1, LOT 4 BLOCK 2  
BOULDER RIDGE FIFTH ADDITION, PART OF THE EAST 1/2 OF NORTH WASHINGTON STREET RIGHT-OF-WAY, PART OF THE SOUTH HALF OF  
LASALLE DRIVE RIGHT-OF-WAY, PART OF THE WEST HALF OF BASALT DRIVE RIGHT-OF-WAY, & PART OF THE WEST 1/2 OF  
SECTION 16, TOWNSHIP 139 NORTH, RANGE 80 WEST  
**BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA**



# BODEN ADDITION

BEING A REPLAT OF LOT 2 & 3 BLOCK 1, LOT 4 BLOCK 2  
BOULDER RIDGE FIFTH ADDITION &  
PART OF THE WEST 1/2 OF  
SECTION 16, TOWNSHIP 139 NORTH, RANGE 80 WEST  
BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



LOCATION MAP

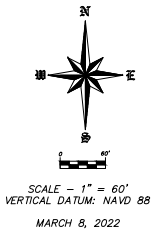
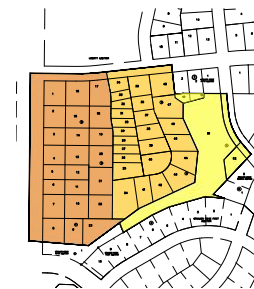
20.0 ACRES  
EXISTING ZONING: R5/A  
PROPOSED ZONING: CONDITIONAL RT, R10, R5, P  
52 LOTS

OWNER: RON & RUTH KNUTSON  
ADDRESS: 555 HIGHWAY 1804 NE  
BISMARCK, ND 58503

OWNER: BOULDER RIDGE DEVELOPMENT, INC  
101 SLATE DR.  
BISMARCK, ND 58503

OWNER: FIVE GUYS INVESTMENT, LLP  
101 SLATE DR.  
BISMARCK, ND 58503

LOT #	OWNER	ACRES	STATUS
1	KNUTSON	0.12	RESERVED
2	KNUTSON	0.12	RESERVED
3	KNUTSON	0.12	RESERVED
4	KNUTSON	0.12	RESERVED
5	KNUTSON	0.12	RESERVED
6	KNUTSON	0.12	RESERVED
7	KNUTSON	0.12	RESERVED
8	KNUTSON	0.12	RESERVED
9	KNUTSON	0.12	RESERVED
10	KNUTSON	0.12	RESERVED
11	KNUTSON	0.12	RESERVED
12	KNUTSON	0.12	RESERVED
13	KNUTSON	0.12	RESERVED
14	KNUTSON	0.12	RESERVED
15	KNUTSON	0.12	RESERVED
16	KNUTSON	0.12	RESERVED
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18	KNUTSON	0.12	RESERVED
19	KNUTSON	0.12	RESERVED
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33	KNUTSON	0.12	RESERVED
34	KNUTSON	0.12	RESERVED
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41	KNUTSON	0.12	RESERVED
42	KNUTSON	0.12	RESERVED
43	KNUTSON	0.12	RESERVED
44	KNUTSON	0.12	RESERVED
45	KNUTSON	0.12	RESERVED
46	KNUTSON	0.12	RESERVED
47	KNUTSON	0.12	RESERVED
48	KNUTSON	0.12	RESERVED
49	KNUTSON	0.12	RESERVED
50	KNUTSON	0.12	RESERVED
51	KNUTSON	0.12	RESERVED
52	KNUTSON	0.12	RESERVED



CONDITIONAL RT: LOTS 1-23  
R10: LOTS 24-48  
R5: LOTS 49-51



## STAFF REPORT

Agenda Item # 5

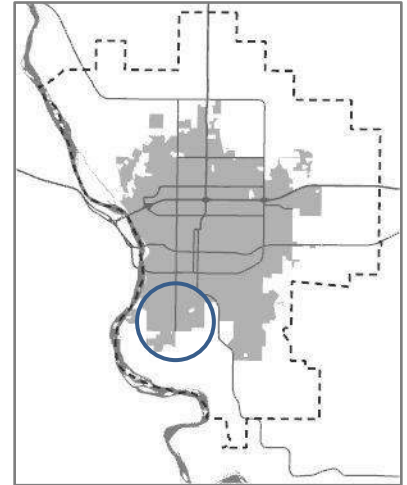
April 27, 2022

Application for: **Special Use Permit**

Project ID: **SUP2021-027**

### Project Summary

<i>Title:</i>	Lot 1, Block 1, Cottonwood Parkview Addition
<i>Status:</i>	Planning & Zoning Commission – Public Hearing
<i>Owner(s):</i>	Western Partners, LLP
<i>Project Contact:</i>	Tim Miller, Missouri River Contracting
<i>Location:</i>	In southwest Bismarck, south of East Wachter Avenue and north of East Burleigh Avenue, in the southeast quadrant of the intersection of Santa Fe Avenue and South Washington Street
<i>Project Size:</i>	96,561 square feet
<i>Request:</i>	Approval of special use permits for a proposed filling station, carwash (auto laundry), and drive-through



### Site Information

Existing Conditions		Proposed Conditions	
<i>Number of Lots:</i>	1 lot in 1 block	<i>Number of Lots:</i>	1 lot in 1 block
<i>Land Use:</i>	Undeveloped	<i>Land Use:</i>	Filling station, auto laundry-car wash, and drive through
<i>Future Land Use:</i>	Already zoned. Not in Future Land Use Plan	<i>Future Land Use:</i>	Already zoned. Not in Future Land Use Plan
<i>Zoning:</i>	Conditional CG – Commercial	<i>Zoning:</i>	Conditional CG – Commercial
<i>Uses Allowed:</i>	Conditional CG – General commercial, neighborhood commercial uses with special use for filling station, car wash, and drive-through	<i>Uses Allowed:</i>	Conditional CG – General commercial, neighborhood commercial uses with special use for filling station, car wash, and drive-through
<i>Max Density:</i>	Conditional CG – 30 units / acre	<i>Max Density:</i>	Conditional CG – 30 units / acre

### Property History

<i>Zoned:</i>	03/2022	<i>Platted:</i>	06/2018	<i>Annexed:</i>	06/2018
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## Staff Analysis

Western Partners, LLP is requesting approval of special use permits to allow the construction and operation of a filling station, carwash, and drive-through on Lot 1, Block 1, Cottonwood Parkview Addition.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on April 15<sup>th</sup> and April 22<sup>nd</sup> and 39 letters were mailed to the owners of nearby properties on April 12<sup>th</sup>.

Adjacent uses include existing multi-family residential to the north across Santa Fe Avenue, undeveloped R10 – Residential and RM – Residential zoned property to the east across Baltimore Drive, undeveloped RM – Residential zoned property to the south, and existing multi-family residential to the west across South Washington Street.

### *Background information*

The proposed special uses are located within the Conditional CG – Commercial zoning district. Additional conditions for development of this district include:

1. The total building height shall be limited to two stories in height;
2. All exterior lighting shall be designed and installed in a manner intended to limit the amount of off-site impacts to the adjacent residential uses;
3. Illuminated signs will be designed and installed in a manner intended to limit the amount of off-site impacts to the adjacent residential uses and will be directed west toward South Washington Street; and
4. The proposed buildings will be designed and constructed to create and maintain a high visual quality and appearance that is

comparable and complementary to the adjacent residential uses.

The applicant's consultant has indicated that these conditions would be met.

A filling station, carwash, and drive-through may be permitted as a special use in the Conditional CG – Commercial zoning district provided certain criteria are met. Compliance with all development standards will also be verified through the site plan and building permit review process.

The following criteria from Section 14-03-08(3)(e) of the City Code of Ordinances (Special Uses/Filling stations) apply:

1. *"The minimum total area of the premises shall be at least twenty-one thousand (21,000) square feet with minimum lot dimensions of one hundred forty (140) feet in width and length.*

The minimum total area and minimum lot dimensions are greater than required.

2. *"Pump dispensers shall have a setback of at least fourteen (14) feet from the property line."*

According to the site plan submitted with the application, this requirement would be met.

3. *"The Filling station building shall have a fifty (50) foot setback from the property lines adjacent to public streets."*

According to the site plan submitted with the application, this requirement would be met.

4. *"A filling station may front on only one arterial or collector street and may also be adjacent to a local street."*

According to the site plan submitted with the application, and based on the current

(continued)

and future functional classification of both South Washington Street and Santa Fe Avenue, this requirement would be met.

5. *"Ingress and egress points shall be maintained at not less than sixty (60) feet from an intersection street corner of arterial or collector streets, and not less than forty (40) feet from intersecting street corner on local streets."*

According to the site plan submitted with the application, this requirement would be met. Access to and egress from the drive-through will be within the site via Santa Fe Avenue.

6. *"All repair areas, grease and wash racks shall be maintained within the principal building."*

According to the site plan submitted with the application, this requirement would be met.

7. *"Rubbish bins and storage racks shall be maintained within a screened area only."*

The site plan submitted with the application identifies a trash and trash collection area in the southeast corner of the property. Adequate screening and landscaping will be reviewed during the site plan review and prior to issuing a building permit for the project.

8. *"Adequate off-street parking must be provided for all operator equipment and at least one space for each two employees and at least five (5) spaces for each service stall or bay on the premises."*

According to the site plan submitted with the application, it appears this requirement would be met. The proposed building will not include a service stall or bay. The required parking is one space for each 300 square feet of retail area, which would require 19 spaces, and one space for each

two employees. The number of employees have not yet been determined however, there would be 30 spaces on site which likely will exceed these requirements.

9. *"No storing or parking of wrecked or partially disassembled automobiles or trucks for periods of greater than ninety-six (96) hours shall be allowed."*

According to the site plan submitted with the application, this requirement would be met.

10. *"Above-ground storage of petroleum products may be allowed only in MA – Industrial District subject to prior written approval of the Fire Department and adherence to the requirements of subsection p of this section."*

The provision does not apply as this property is not located within the MA – Industrial zoning district and no above ground storage of petroleum products is proposed.

The following criteria from Section 14-03-08(3)(m) of the City Code of Ordinances (Special Uses/carwash) apply:

1. *"The lot area, lot width, front yards, side yard, rear yards, floor area and height limit of the structure and its appurtenances shall conform to the requirements of the district in which it is located except that the minimum front yard setback shall be twenty-five (25) feet."*

The lot area, lot width, front yards, side yard, rear yard and height limit of the structure and its appurtenances appear to conform to the requirements of the Conditional CG – Commercial zoning district.

(continued)

2. *“Access to and egress from an auto laundry facility shall be arranged for the free flow of vehicles at all times, so as to prevent the blocking or endangering of vehicular or pedestrian traffic through the stopping or standing or backing of vehicles on sidewalks or streets. In addition, vehicle stacking spaces shall be provided on the premises in accordance with section 14-03-10 of this ordinance, in addition to all common ingress and egress areas provided.”*

According to the site plan submitted with the application, this requirement would be met.

3. *“Ingress and egress points shall be maintained at not less than sixty (60) feet from an intersection street corner of arterial or collector streets, and not less than forty (40) feet from an intersecting street corner on local streets.”*

According to the site plan submitted with the application, this requirement would be met.

4. *“An auto laundry-car wash may front on only one arterial or collector street and may also be adjacent to a local street.”*

According to the site plan submitted with the application and based on the current and future functional classification of both South Washington Street and Santa Fe Avenue, this requirement would be met.

5. *“All access and egress driveways shall cross a sidewalk in such a manner that its width at the inner edge of the sidewalk is no greater than its width at the curb, excluding any curved or tapered section known as the curb return. All curb cuts, widths, and other specifications shall comply with the standards established by the city engineer.”*

According to the site plan submitted with the application, this requirement would be met.

6. *“No fence, wall, terrace, structure, shrubbery or other obstruction to vision having a height greater than three (3) feet above the curb shall occupy the front ten (10) feet of any lot except a sign pole as permitted in chapter 14-03.1 of the City Code of Ordinances.”*

No fence, wall, terrace or structure is located within the front 10 feet of the lot.

The following criteria from Section 14-03-08(3)(g) of the City Code of Ordinances (Special Uses/drive-through) apply:

1. *“The lot area, lot width, front yards, side yard, rear yard, floor area and height limit of the structure and its appurtenances shall conform to the requirements of the district in which it is located.”*

The lot area, lot width, front yards, side yard, rear yard and height limit of the structure and its appurtenances appear to conform to the requirements of the Conditional CG – Commercial zoning district.

2. *“Access to and egress from a drive-through establishment shall be arranged for the free flow of vehicles at all times, so as to prevent the blocking or endangering of vehicular or pedestrian traffic through the stopping or standing or backing of vehicles on sidewalks or streets.”*

According to the site plan submitted with the application, this requirement would be met. Access to and egress from the drive-through will be within the site via Santa Fe Avenue.

3. *“Adequate off-street parking shall be provided in conformance with section 14-*

(continued)



03-10 of this ordinance. In addition, vehicle stacking spaces shall be provided on the premises in accordance with section 14-03-10 of this ordinance, in addition to all common ingress and egress areas provided.

Adequate off-street parking would be provided in conformance with Section 14-03-10 of this ordinance and will be verified through the site plan review process. Vehicle stacking spaces will also be provided on the premises in accordance with Section 14-03-10 of this ordinance.

4. *"Ingress and egress points shall be maintained at not less than sixty (60) feet from an intersecting street corner of arterial or collector streets, and not less than forty (40) feet from an intersecting street corner on local street."*

According to the site plan submitted with the application, this requirement would be met.

5. *"All access and egress driveways shall cross a sidewalk only in such a manner that its width at the inner edge of the sidewalk is no greater than its width at the curb, excluding any curved or tapered section known as the curb return. Any portion of a parking or loading area abutting a sidewalk at a point other than a permitted driveway shall be provided with wheel stops, bumper guards, or other devices to prevent encroachment of parked, standing or moving vehicles upon any sidewalk area not contained within a permitted driveway. All curb cuts, widths and other specifications shall comply with the standards established by the city engineer."*

According to the site plan submitted with the application, this requirement would be met.

6. *"On a corner lot no fence, wall, terrace, structure, shrubbery or automobile shall be parked or other obstruction to vision having a height greater than three (3) feet above the curb shall occupy the space in a triangle formed by measuring ten (10) feet back along the side and front property lines."*

No fence, wall, terrace or structure is located within the front 10 feet of the lot.

#### **Required Findings of Fact (relating to land use)**

1. The proposed special uses comply with all applicable provisions of the zoning ordinance and are consistent with the general intent and purpose of the zoning ordinance;
2. The proposed special uses are compatible with adjacent land uses and zoning;
3. The proposed special uses would be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area;
4. Adequate public facilities and services are in place or would be provided at the time of development;
5. The proposed special uses would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity;
6. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic;
7. The proposed special uses are consistent with the master plan, other adopted plans, policies and accepted planning practice; and

(continued)

8. The proposed special uses would not adversely affect the public health, safety and general welfare.

1. Development of the site must generally conform to the site plan submitted with the application.

**Staff Recommendation**

Based on the above findings, staff recommends staff recommends approval of the special use permits to allow the construction and operation of a filling station, carwash, and drive-through on Lot 1, Block 1, Cottonwood Parkview Addition, with the following condition.

**Attachments**

1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Site Plan Exhibit
5. Building Elevations

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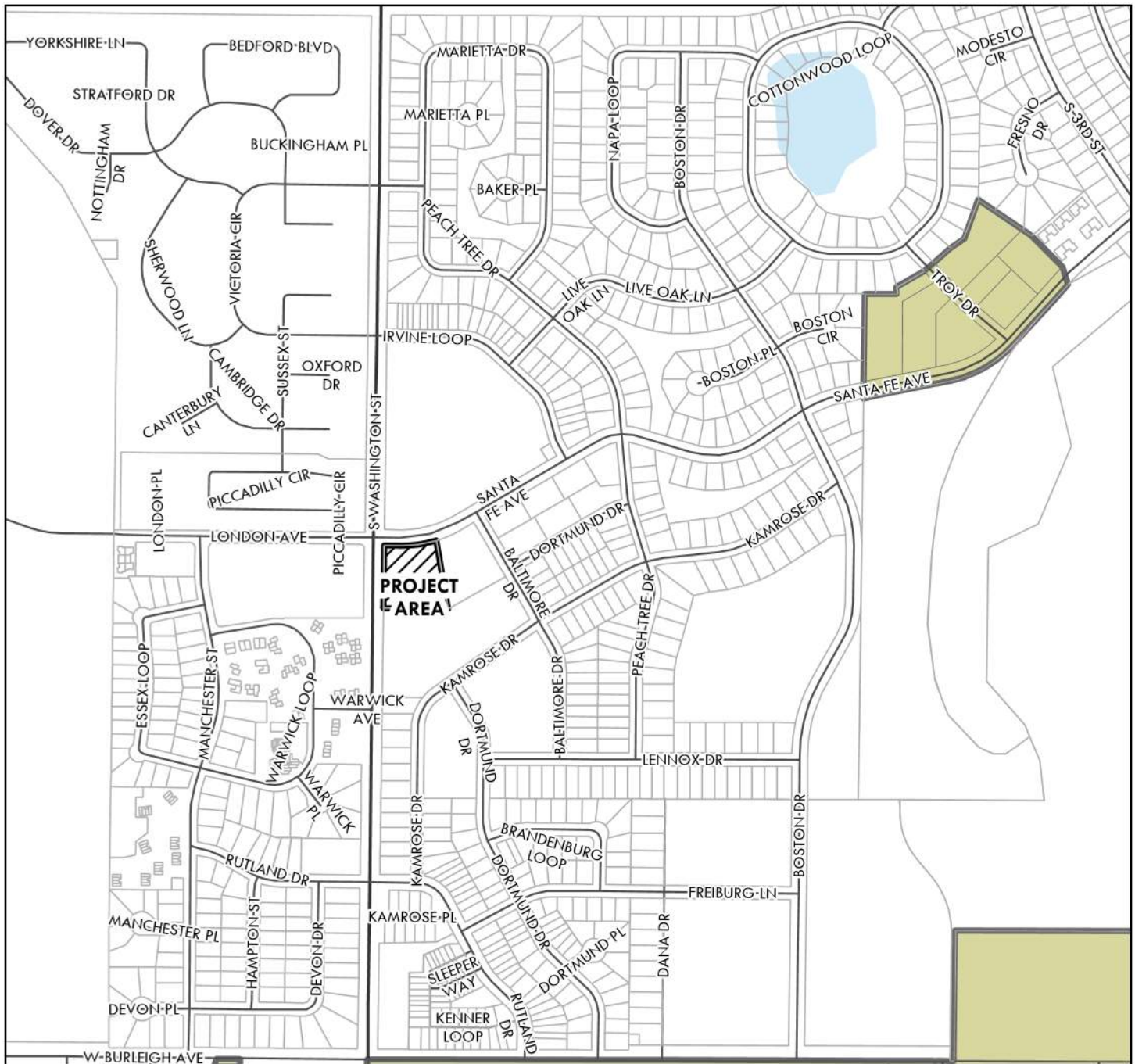
*Staff report prepared by:* Jenny Wollmuth, AICP, CFM, Senior Planner  
701-355-1845 | [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)



## Location Map

COTTONWOOD PARKVIEW ADDITION, L1, B1

SUP2021-027



City Limits

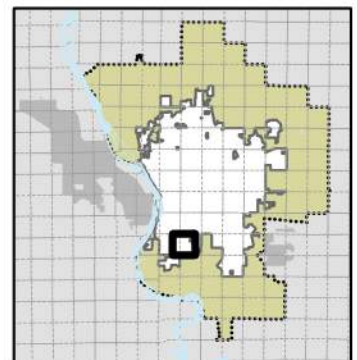


Bismarck ETA Jurisdiction

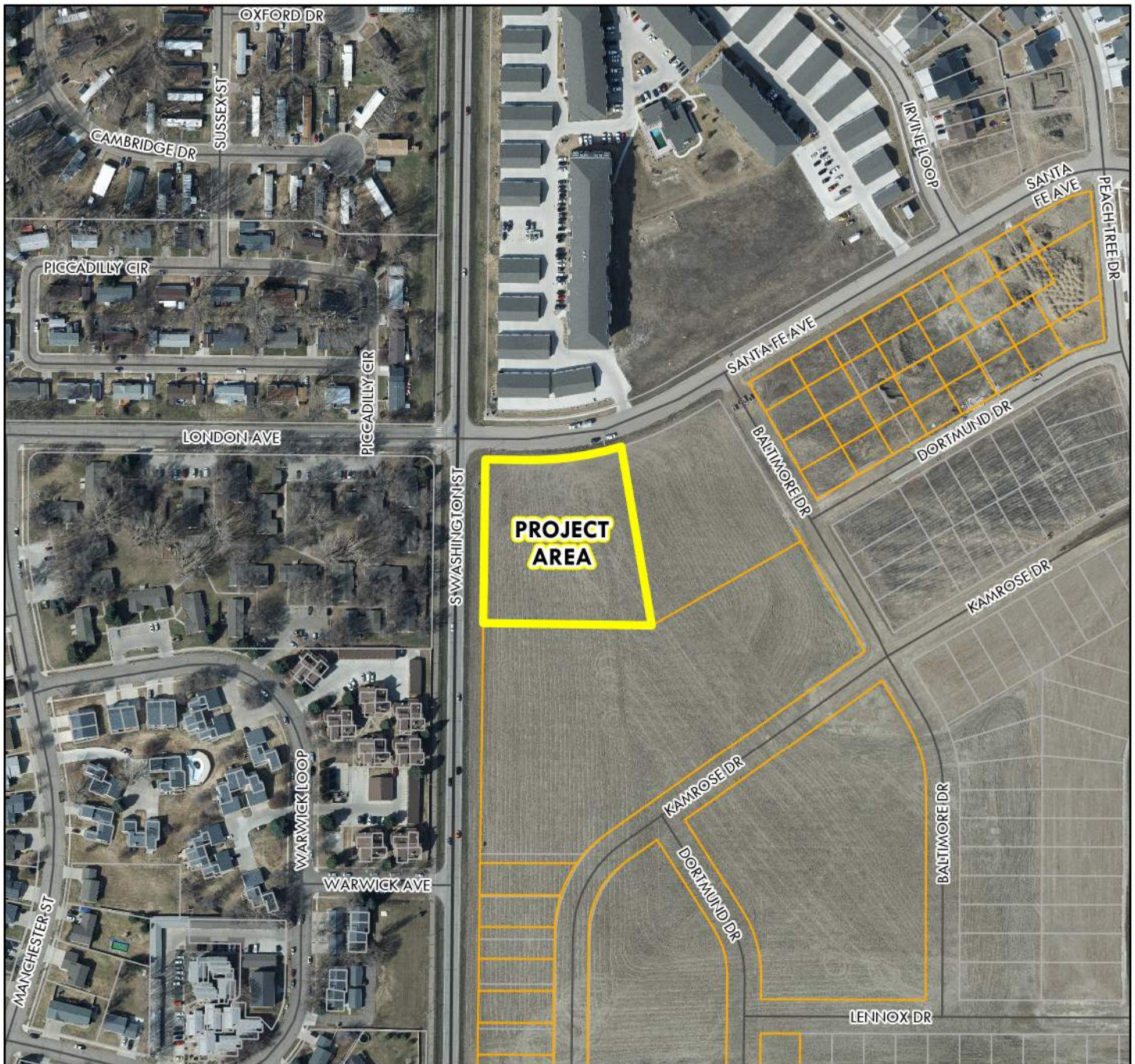
City of Bismarck  
Community Development Department  
Planning Division  
April 21, 2022 (HLB)

*Section, township, and  
range indicated in orange*

*This map is for representational use only and does not represent a survey.  
No liability is assumed as to the accuracy of the data delineated hereon.*



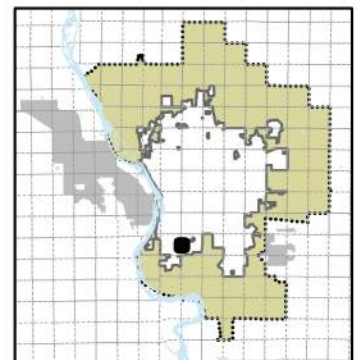




Aerial Imagery from April 2020

City of Bismarck  
Finance Department  
IT/GIS Division  
April 21, 2022

*This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.*







## Zoning and Plan Reference Map

COTTONWOOD PARKVIEW ADDITION, L1, B1

SUP2021-027

### Zoning Districts

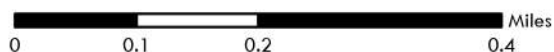
<b>A</b>	Agriculture
<b>RR</b>	Rural
<b>R5</b>	Residential
<b>RMH</b>	Manufactured Home Residential
<b>R10</b>	Residential
<b>RM</b>	Residential Multifamily
<b>RT</b>	Residential (Offices)
<b>HM</b>	Health and Medical
<b>CA</b>	Commercial
<b>CG</b>	Commercial
<b>MA</b>	Industrial
<b>MB</b>	Industrial
<b>PUD</b>	Planned Unit Development
<b>DC</b>	Downtown Core
<b>DF</b>	Downtown Fringe

### Future Land Use Plan

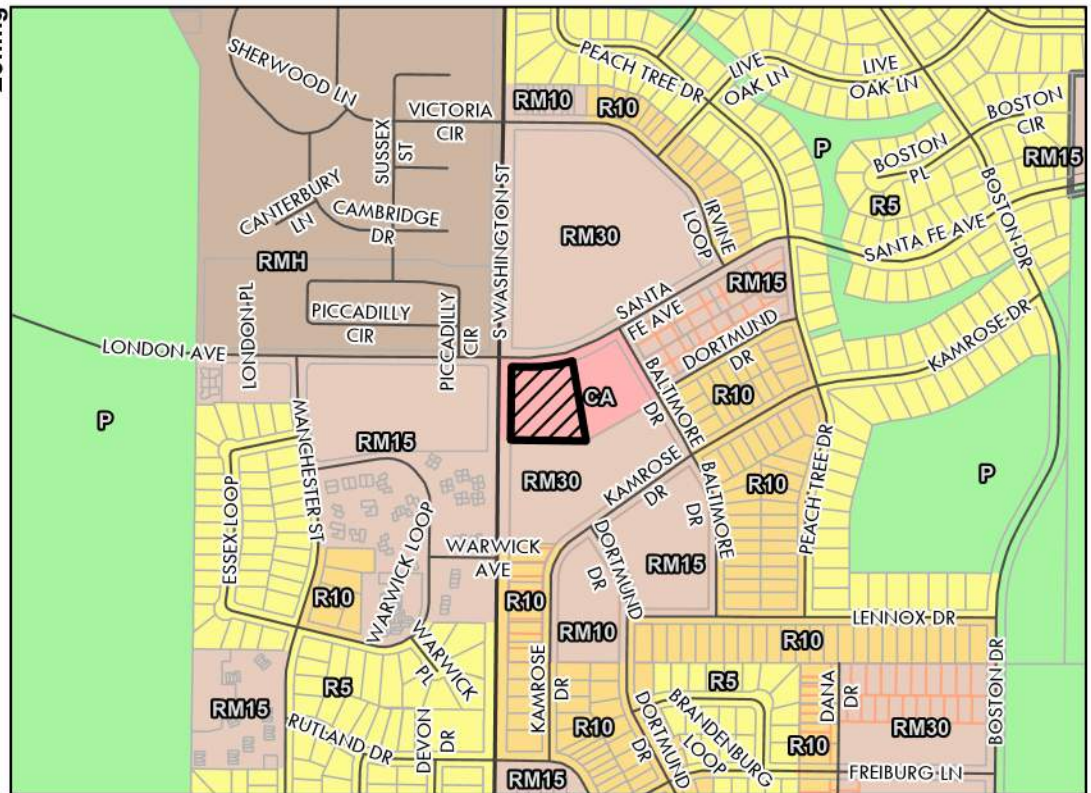
<b>CONSRV</b>	Conservation
<b>BP</b>	Business Park
<b>C</b>	Commercial
<b>C/MU</b>	Commercial/Mixed Use
<b>CIVIC</b>	Civic
<b>HDR</b>	High Density Residential
<b>I</b>	Industrial
<b>LDR</b>	Low Density Residential
<b>MDR</b>	Medium Density Residential
<b>MDR-/MU</b>	Medium Density Residential/Mixed Use
<b>O/MU</b>	Office/Mixed Use
<b>RR-C</b>	Clustered Rural Residential
<b>RR</b>	Standard Rural Residential
<b>UR</b>	Urban Reserve

### Fringe Area Road Master Plan

- ● ● Future Arterial Road
- ■ ■ Future Collector Road



Zoning



Future Land Use Plan



This map is for representational use only and does not represent a survey.  
No liability is assumed as to the accuracy of the data delineated herein.



City of Bismarck  
Community Development Dept.  
Planning Division  
April 21, 2022



1 FRONT ENTRANCE EXTERIOR CONCEPT  
A600 NOT TO SCALE



2 SIDE ENTRANCE EXTERIOR CONCEPT  
A600 NOT TO SCALE

RENDERING GENERAL NOTE: ALL RENDERINGS ARE TO IDENTIFY DESIGN CONCEPTS ONLY. SCALES, MATERIALS, PATTERNS, SIGNAGE AND SIZES SHOULD BE IDENTIFIED AND USED OFF OF SPECIFICATIONS AND LINE DRAWINGS ONLY.

PARKLAND ON THE RUN  
NEW BUILD  
SANTA FE AVE, BISMARCK, ND

DRAWN BY: WGD  
CHECKED BY: PTK

DATE: 03/11/2022

REVISIONS

#	DATE
#	-/-/-
#	-/-/-
#	-/-/-

Project No.  
R21020.30

EXTERIOR  
RENDERINGS

A600

ACKERMAN  
ESTVOLD  
1907 17th St SE - Minn, ND 58701  
701.837.8737 - www.ackerman-estvold.com  
Minneapolis, MN • Chicago, IL • Madison, WI • Seattle, WA





1 BACK OF BUILDING EXTERIOR CONCEPT  
A601 NOT TO SCALE



2 SIDE OF BUILDING EXTERIOR CONCEPT  
A601 NOT TO SCALE







## STAFF REPORT

Agenda Item # 6

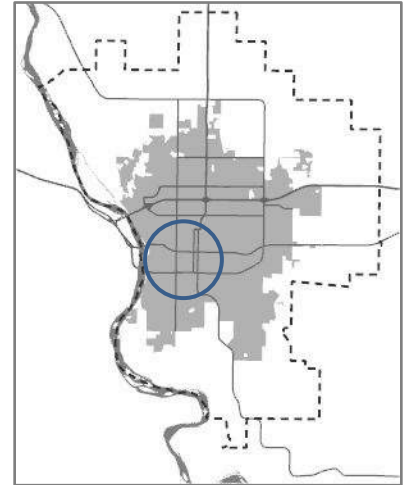
April 27, 2022

Application for: **Special Use Permit**

Project ID: **SUP2022-003**

### Project Summary

<i>Title:</i>	Lot 16, Block 20, Wachters 4th Addition and part of Lot 1, Block 1, Kirkwood Addition
<i>Status:</i>	Planning & Zoning Commission – Public Hearing
<i>Owner(s):</i>	Phat Brothers Bakery, Inc.
<i>Project Contact:</i>	Brian Zuroff, PE, Mountain Plains, LLC
<i>Location:</i>	In central Bismarck, north of East Bismarck Expressway and west of South 3rd Street, along the south side of East Indiana Avenue and the east side of South Second Street (601 South Second Street)
<i>Project Size:</i>	19,602 square feet
<i>Request:</i>	Install a drive-in/drive-through in conjunction with a donut and coffee shop



### Site Information

Existing Conditions		Proposed Conditions	
<i>Number of Lots:</i>	1 parcel	<i>Number of Lots:</i>	1 parcel
<i>Land Use:</i>	Vacant	<i>Land Use:</i>	Retail service establishment
<i>Future Land Use:</i>	Already zoned. Not in Future Land Use Plan	<i>Future Land Use:</i>	Already zoned. Not in Future Land Use Plan
<i>Zoning:</i>	CG – Commercial	<i>Zoning:</i>	CG – Commercial
<i>Uses Allowed:</i>	CG – General commercial, multi-family residential, and offices	<i>Uses Allowed:</i>	CG – General commercial, multi-family residential, and offices
<i>Max Density:</i>	CG – 42 units / acre	<i>Max Density:</i>	CG – 42 units / acre

### Property History

<i>Zoned:</i>	Pre-1980	<i>Platted:</i>	Wachters 4 <sup>th</sup> – 1972 Kirkwood - 1976	<i>Annexed:</i>	Pre-1980
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(continued)

## Staff Analysis

Phat Brothers Bakery, Inc. is requesting approval of a special use permit to allow a drive-in/drive-through in conjunction with a donut and coffee shop on Lot 16, Block 20, Wachters 4th Addition and part of Lot 1, Block 1, Kirkwood Addition.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on April 15<sup>th</sup> and April 22<sup>nd</sup>, and 11 letters were mailed to the owners of nearby properties on April 12<sup>th</sup>.

Adjacent uses include a full-service restaurant and bar to the north across East Indiana Avenue, a coffee shop with a drive-through to the east, a hotel to the south and a multi-tenant office space to the west across South 2<sup>nd</sup> Street.

The property is located in the CG - Commercial zoning district. A drive-in/drive-through retail or service establishment may be permitted as a special use in the CG - Commercial zoning district provided certain criteria are met. The proposed facility would function only as a call-ahead order pickup window, and as such as the applicant is also requesting a waiver request to reduce the number of required stacking spaces from ten to seven.

The following criteria from Section 14-03-08(3)(g) of the City Code of Ordinances (Special Uses/Drive-in/drive-through retail or service establishments) apply:

1. *"The lot area, lot width, front yard, side yards, rear yard, floor area and height limit of the structure and its appurtenances shall conform to the requirements of the district in which it is located."*

A site plan for this special use permit was submitted with the application as well as a copy of the site plan currently

under administrative review. Staff have confirmed these criteria would be met.

2. *"Access to and egress from a drive-in/drive-through establishment shall be arranged for the free flow of vehicles at all times, so as to prevent the blocking or endangering of vehicular or pedestrian traffic through the stopping or standing or backing of vehicles on sidewalks or streets."*

As designed with seven stacking spaces compared to the ordinance requirements for ten stacking spaces for this type of facility, this requirement would be met. Staff has concerns that if this drive-in/drive-through no longer functions as a pre-order pickup window then the ten-stacking space requirement would be necessary and could impact overall site maneuverability. Any future changes to operations that expand the drive-through from a call-ahead order pickup window will need to be re-evaluated.

3. *"Adequate off-street parking shall be provided in conformance with section 14-03-10 of this ordinance. In addition, vehicle stacking spaces shall be provided on the premises in accordance with section 14-03-10 of this ordinance, in addition to all common ingress and egress areas provided."*

Staff have reviewed the site plan submitted with the application and confirmed adequate parking spaces would be provided as proposed.

4. *Ingress and egress points shall be maintained at not less than sixty (60) feet from an intersecting street corner of arterial or collector streets, and not less than forty (40) feet from an intersecting street corner on local street."*

(continued)

According to the site plan submitted with the application, this requirement would be met.

5. *“All access and egress driveways shall cross a sidewalk only in such a manner that its width at the inner edge of the sidewalk is no greater than its width at the curb, excluding any curved or tapered section known as the curb return. Any portion of a parking or loading area abutting a sidewalk at a point other than a permitted driveway shall be provided with wheel stops, bumper guards, or other devices to prevent encroachment of parked, standing or moving vehicles upon any sidewalk area not contained within a permitted driveway. All curb cuts, widths and other specifications shall comply with the standards established by the city engineer.”*

According to the site plan submitted with the application, this requirement would be met.

6. *“On a corner lot no fence, wall, terrace, structure, shrubbery or automobile shall be parked or other obstruction to vision having a height greater than three (3) feet above the curb shall occupy the space in a triangle formed by measuring ten (10) feet back along the side and front property lines.”*

According to the site plan submitted with the application, this requirement would be met.

#### **Required Findings of Fact (relating to land use)**

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the

general intent and purpose of the zoning ordinance;

2. The proposed special use is compatible with adjacent land uses and zoning;
3. The proposed special use would be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area;
4. Adequate public facilities and services are in place or would be provided at the time of development;
5. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity;
6. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic;
7. The proposed special use is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed special use would not adversely affect the public health, safety and general welfare.

#### **Staff Recommendation**

Based on the above findings, staff recommends approval of the special use permit to allow a drive-in/drive-through in conjunction with a donut and coffee shop on Lot 16, Block 20, Wachters 4th Addition and part of Lot 1, Block 1, Kirkwood Addition including the waiver request to reduce the number of required stacking spaces from ten to seven with the following condition:

1. Any future changes to operations that expand the drive-through from a call-

(continued)

ahead order pickup window will need to be re-evaluated; and

2. Site Development must generally be consistent with the site plan submitted.

Attachments

1. Location Map

2. Aerial Map

3. Zoning and Plan Reference Map

4. Site Plan

5. Applicant Justification for Stacking Space Reduction Waiver Request

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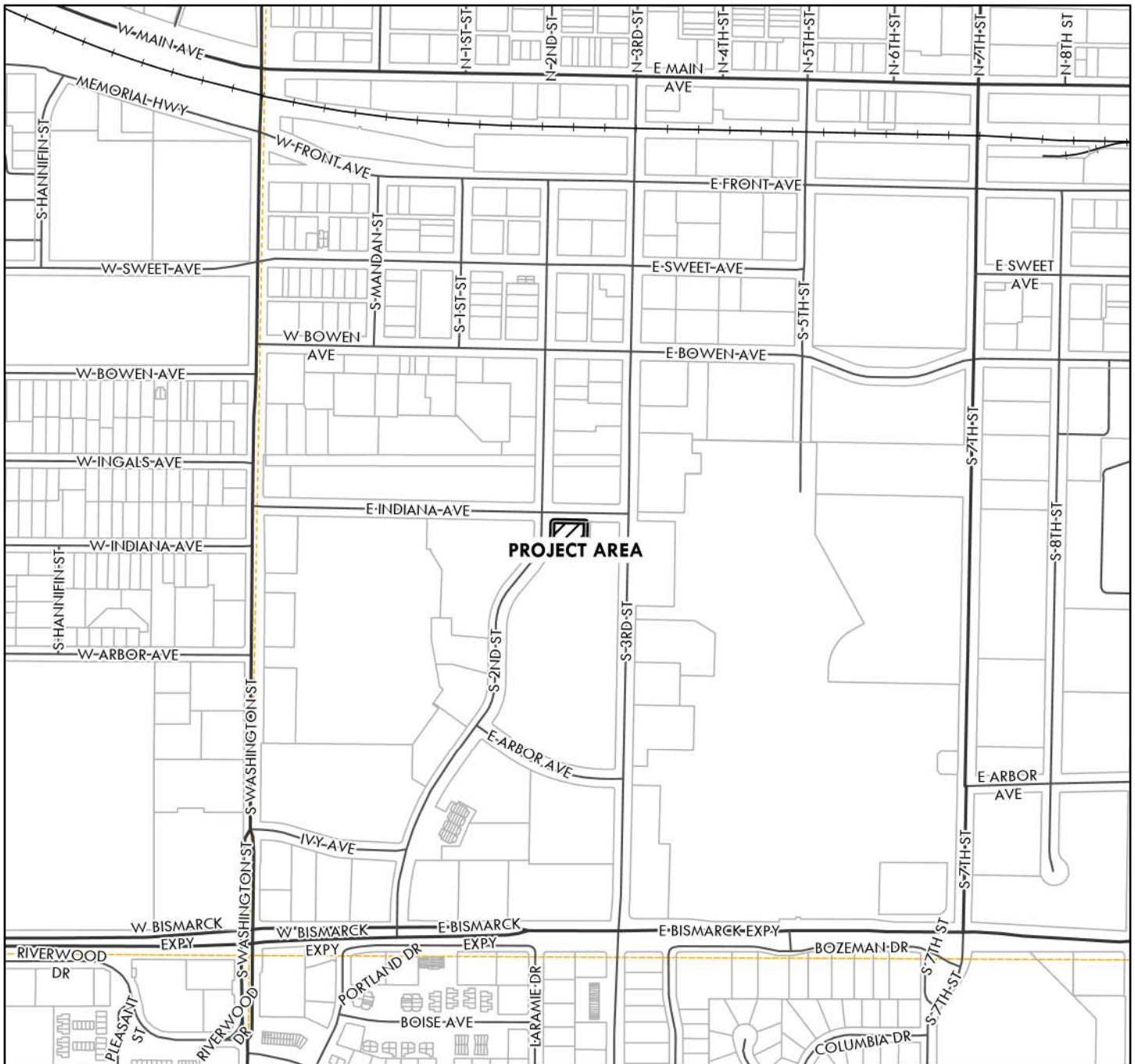
*Staff report prepared by:* Will Hutchings, AICP, Senior Planner  
701-355-1850 | [whutchings@bismarcknd.gov](mailto:whutchings@bismarcknd.gov)



## Location Map

SUP2022-003

WACHERS 4TH ADD, L16, B20; KIRKWOOD ADDITION, PT L1, B1



0 0.15 0.3 0.6 Miles



City Limits

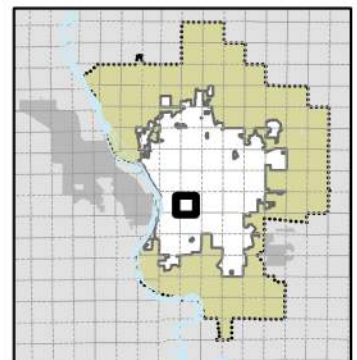


Bismarck ETA Jurisdiction

City of Bismarck  
Community Development Department  
Planning Division  
March 30, 2022 (HLB)

Section, township, and  
range indicated in orange

This map is for representational use only and does not represent a survey.  
No liability is assumed as to the accuracy of the data delineated hereon.



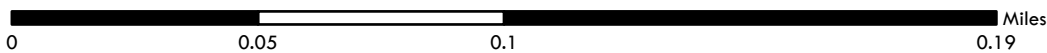
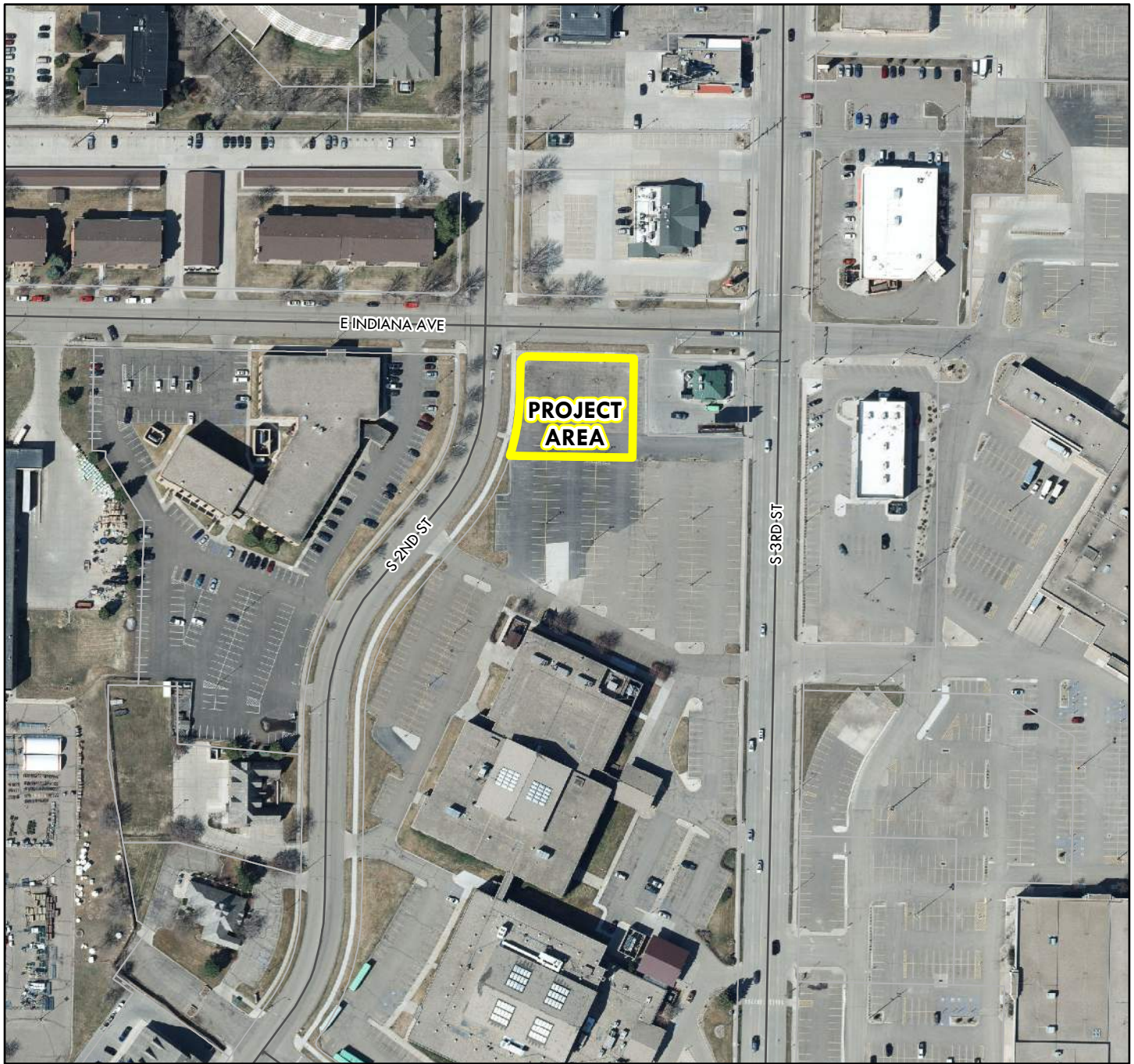




# Aerial Map

SUP2022-003

WACHERS 4TH ADD, L16, B20; KIRKWOOD ADDITION, PT L1, B1

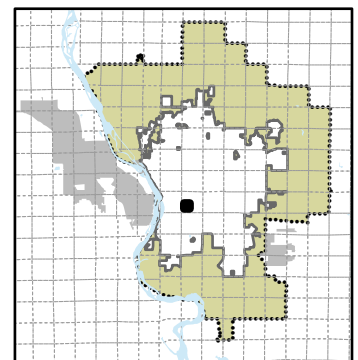


 City Limits  Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

City of Bismarck  
Finance Department  
IT/GIS Division  
April 20, 2022

*This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.*





## Zoning and Plan Reference Map

SUP2022-003

WACHERS 4TH ADD, L16, B20; KIRKWOOD ADDITION, PT L1, B1

### Zoning Districts

<b>A</b>	Agriculture
<b>RR</b>	Rural
	Residential
<b>R5</b>	Residential
<b>RMH</b>	Manufactured
	Home Residential
<b>R10</b>	Residential
<b>RM</b>	Residential
	Multifamily
<b>RT</b>	Residential
	(Offices)
<b>HM</b>	Health and
	Medical
<b>CA</b>	Commercial
<b>CG</b>	Commercial
<b>MA</b>	Industrial
<b>MB</b>	Industrial
<b>PUD</b>	Planned Unit
	Development
<b>DC</b>	Downtown Core
<b>DF</b>	Downtown Fringe

### Future Land Use Plan

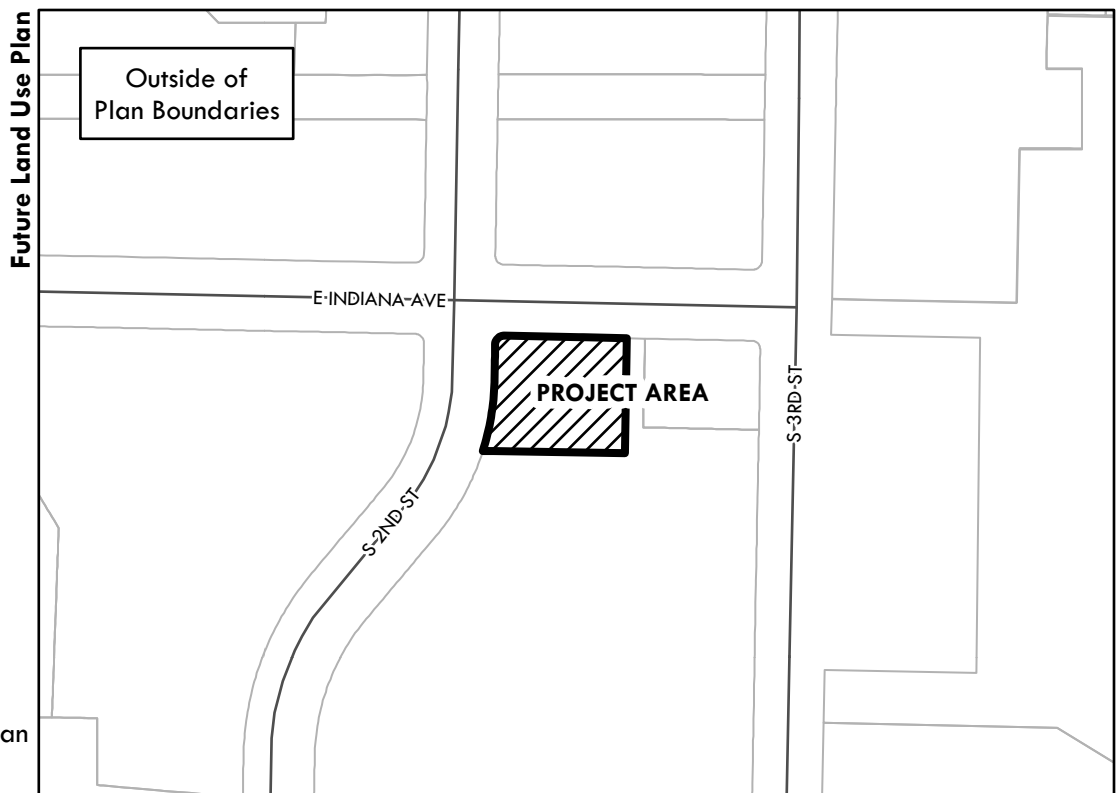
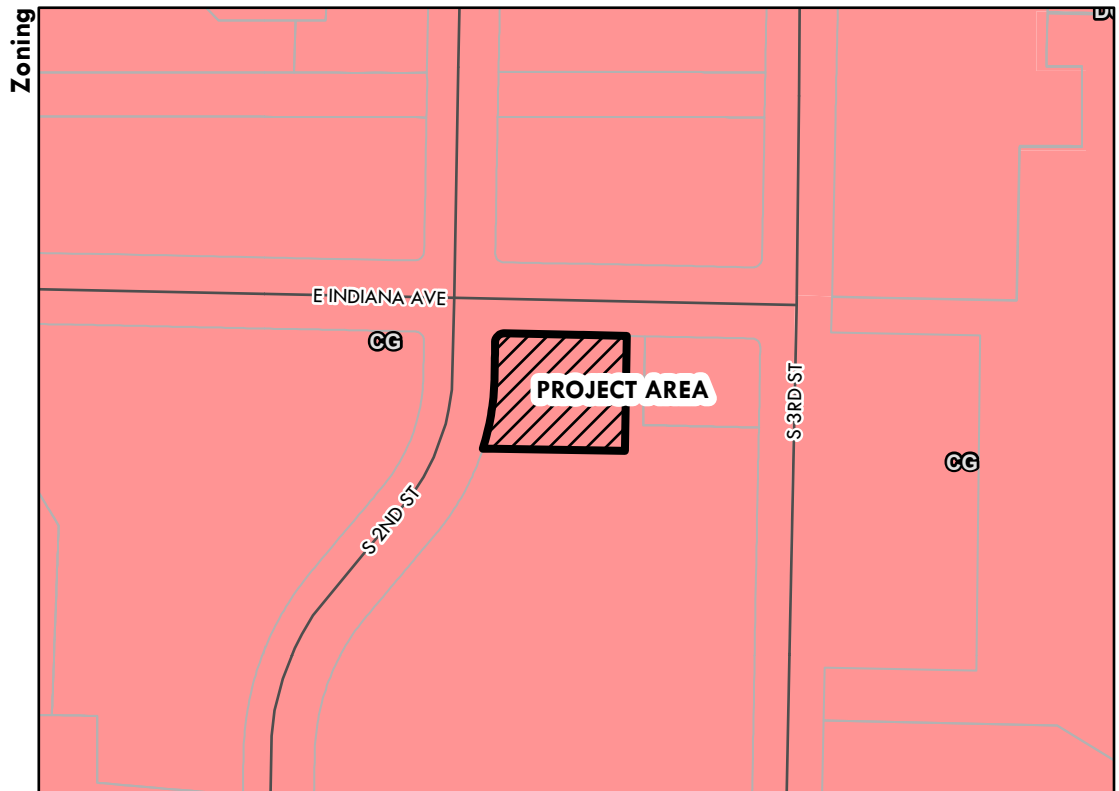
<b>CONSRV</b>	Conservation
<b>BP</b>	Business Park
<b>C</b>	Commercial
<b>C/MU</b>	Commercial/ Mixed Use
<b>CIVIC</b>	Civic
<b>HDR</b>	High Density
	Residential
<b>I</b>	Industrial
<b>LDR</b>	Low Density
	Residential
<b>MDR</b>	Medium Density
	Residential
<b>MDR- /MU</b>	Medium Density Residential/ Mixed Use
<b>O/MU</b>	Office/ Mixed Use
<b>RR-C</b>	Clustered Rural
	Residential
<b>RR</b>	Standard Rural
	Residential
<b>UR</b>	Urban Reserve

### Fringe Area Road Master Plan

● ● ● Future Arterial Road

■ ■ ■ Future Collector Road

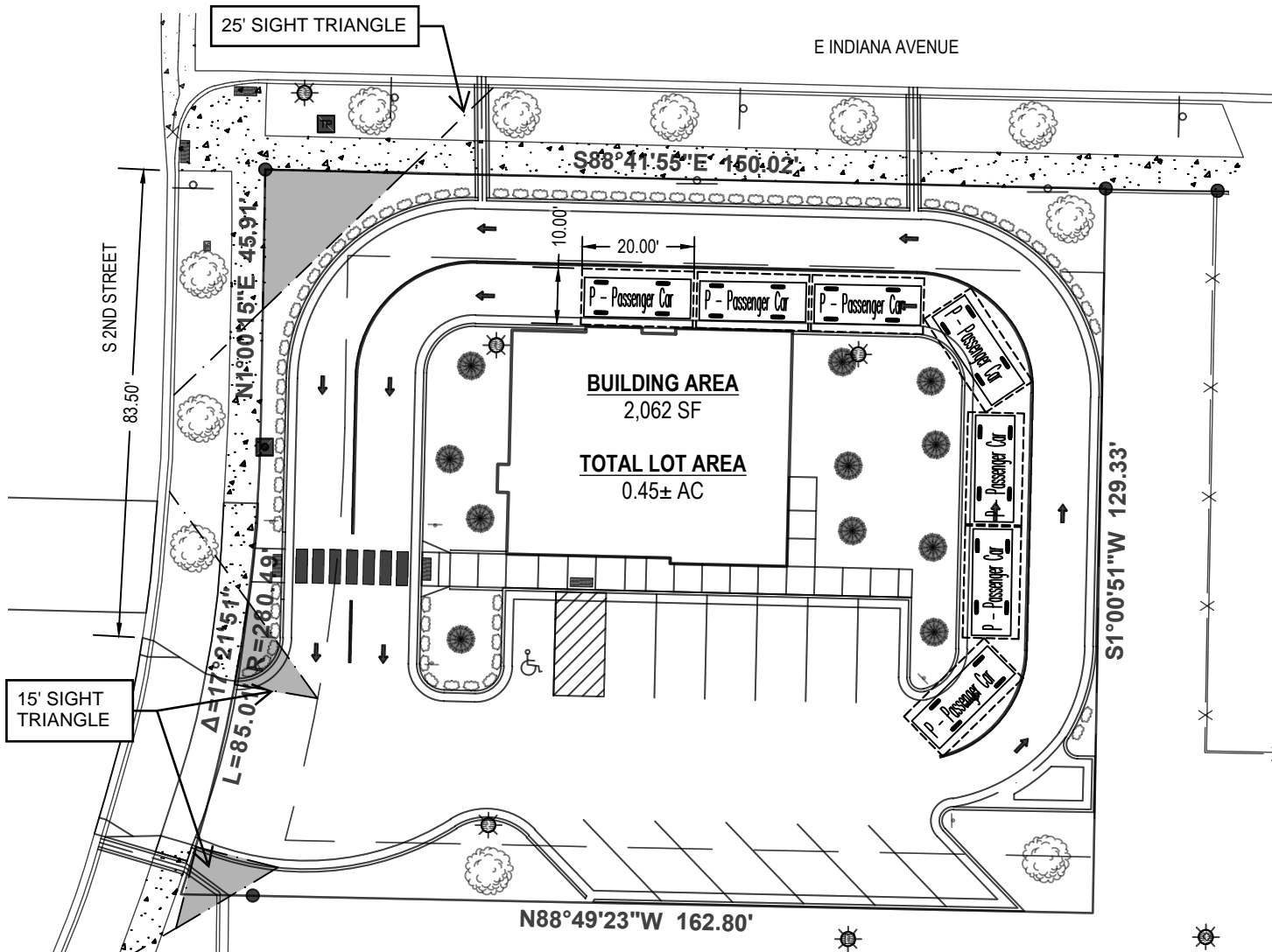
0 0.03 0.05 0.1 Miles



*This map is for representational use only and does not represent a survey.  
No liability is assumed as to the accuracy of the data delineated hereon.*



City of Bismarck  
Community Development Dept.  
Planning Division  
April 20, 2022



#### PARKING REQUIREMENTS

PER CITY OF BISMARCK ZONING ORDINANCE 14-03-10 "OFF-STREET PARKING AND LOADING", OFF-STREET PARKING FOR THE SITE IS CALCULATED AS FOLLOWS:

\*FAST FOOD RESTAURANT (COFFEE)

COFFEE SHOP = 293 SF @ 1:60 SF = 5 PARKING SPACES

1 PARKING SPACE FOR EACH PERSON ON SHIFT - ESTIMATED AT 5 EMPLOYEES STACKING FOR 10 VEHICLES

#### TOTALS

13 PROVIDED TOTAL PARKING SPACES

12 STANDARD VEHICLE SPACES

1 ADA COMPLIANT VAN ACCESSIBLE PARKING SPACE

7 STACKING VEHICLE SPACES - WAIVER REQUESTED BASED ON TECHNICAL DATA - PLEASE SEE SUP NARRATIVE

#### LANDSCAPING



DECIDUOUS TREE

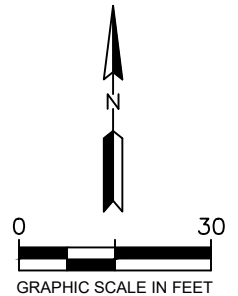


CONIFEROUS TREE



SHRUB

NOTE: MATURE HEIGHT FOR SHRUBS LOCATED WITHIN THE SIGHT TRIANGLES (AS SHOWN) SHALL NOT EXCEED 3-FEET. TREES LOCATED IN THE BOULEVARD (I.E. "STREET TREES") SHALL HAVE A MATURE CANOPY HEIGHT GREATER THAN 10-FEET AND PRESENT NO VISUAL OBSTRUCTIONS WITHIN 3-FEET OF HEIGHT TO 10-FEET OF HEIGHT (MEASURED FROM THE CURB).



## CAVANAGH COMMERCIAL BUILDING

PHAT BROTHERS BAKERY // STRAIGHTWAY CONSTRUCTION



NO.	DATE	DESCRIPTION	DATE:	PROJECT NO:	DRWN BY:	APPD BY:
1	3/1/22	TRACKING EXHIBIT	April 12, 2022	54 004907	NWN	BJZ
2	3/16/22	PER CITY COMM.				
3	4/12/22	PER CITY COMM.				

SHEET NO:	1 OF 1
SHEET TITLE:	DRIVE THRU TRACKING





March 16, 2022

Department of Community Development  
Planning Division  
City of Bismarck, North Dakota  
221 North 5<sup>th</sup> Street  
Bismarck, ND 58503

**Special Use Permit – Waiver Request Narrative  
Cavanagh Commercial Building**

**To Whom It May Concern:**

Thank you for considering the Special Use Permit request for a Drive-Thru Lane on the Straightway Construction Cavanagh Commercial Building project by project owner Kevin Cavanagh.

Per discussion during the meeting between City Engineering, Planning, Fire, and Police staff, Straightway Construction, and Mountain Plains on 03/11/2022 at 2:30 PM in the Engineering Department conference room, please consider this letter a Waiver Request for the minimum vehicle stacking spaces required per City Ordinance. Ordinance currently requires 10 vehicle stacking spaces for a Coffee Shop fast food establishment. The proposed drive-thru pickup window for the building (housing Bearscat Bakery) is to be intended for online and call-in orders only. There will not be an order kiosk/intercom installed as part of this project, or an order board installed on or near the building. Additionally, orders will not be taken via the drive-up window.

Bearscat Bakery operates the same business model for their Minot, North Dakota location. In discussion with the Minot store manager, the average transaction time at the window is 60-seconds or less (different than the 30-to-45 seconds discussed in the aforementioned meeting). Since orders are already paid for, the customer simply pulls up to the window, provides the name on the order, and the pre-prepared order is delivered. This system is similar to a pharmacy drive up window, which requires 3 stacking spaces.

Average wait time for a drive-thru window, per a study collected and tabulated by SeeLevel HX, and published in QSR Magazine on October 2018 (Table shown below), the average wait time of drive-through establishments is 234.08 seconds, with McDonalds topping the list at 273.29 seconds and Burger King being the least at 193.31 seconds average window time. Since the average wait time seen at the Minot Bearscat Bakery (operating the same drive-thru model proposed with this project) being no greater than 60 seconds (almost 70% less than the national average), we are asking for a 30% reduction in the required stacking spaces required for a drive-thru window.

CHAIN	AVERAGE TIME IN SECONDS
Arby's	237.93
Burger King	193.31
Carl's Jr.	252.91
Chick-fil-A	260.85
Dunkin' Donuts	200.74
Hardee's	255.83
KFC	218.95
McDonald's	273.29
Taco Bell	236.50
Wendy's	226.07
Summary	234.08

**Figure 1: Average Wait Time at Drive-Thru Service Windows (Data collected by SeeLevel HX and published in QSR Magazine, October 2018)**

To best serve Bearscat, its customers, and the City, while utilizing the site in an aesthetically pleasing manner, we are proposing a reduction in vehicle stacking spaces from the 10 required stacking spaces to 7 Stacking Spaces.

As always, if you have any questions, comments, or concerns, please feel free to contact us directly at any time.



**Brian J. Zuroff, PE**  
Civil Engineer  
Mountain Plains, LLC  
Direct: (701) 955-3122  
[bzuroff@mtnaplains.com](mailto:bzuroff@mtnaplains.com)

Reference: <https://www.qsrmagazine.com/drive-thru/2018-drive-thru-study-speed-service-0>



## STAFF REPORT

Agenda Item # 7

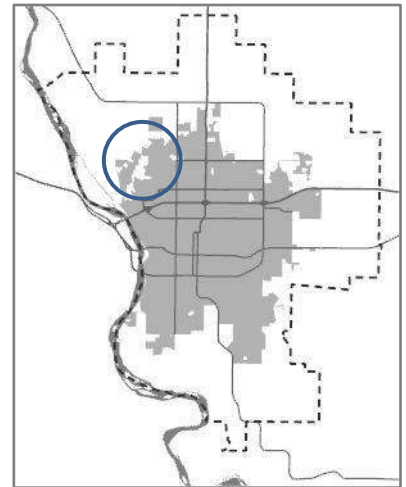
April 27, 2022

Application for: **Annexation**  
**Zoning Change**  
**Major Subdivision Final Plat**

Project ID: **ANNX2021-003**  
**ZC2021-001**  
**FPLT2021-003**

### Project Summary

<i>Title:</i>	Elk Ridge Third Addition
<i>Status:</i>	Planning & Zoning Commission – Public Hearing
<i>Owner(s):</i>	Tyler Coulee, LLP, Bismarck North Developers, LLC Ron Knutson, Henry and Jeanette Albers Paulette Thurn and Michael Hoffman
<i>Project Contact:</i>	Landon Niemiller, Swenson Hagen & CO
<i>Location:</i>	In northwest Bismarck, between River Road and East Valley Drive, east of Promontory Point VI Addition along the east side of Tyler Parkway (a replat of Lots 1-2, Block 3 and Lot 1, Block 4, Eagle Crest 6th Addition and Auditor's Lot A of the SE1/4 of Section 18 and part of the SE1/4 of Section 18, and part of the NE1/4 of Section 19, T139N-R80W/Hay Creek Township)
<i>Project Size:</i>	158.99 acres
<i>Request:</i>	Annex, zone and plat property for future single and two-family residential development



### Site Information

Existing Conditions		Proposed Conditions	
<i>Number of Lots:</i>	Part of 2 parcels and 3 lots	<i>Number of Lots:</i>	98 lots in 4 blocks
<i>Land Use:</i>	Undeveloped	<i>Land Use:</i>	Single and two-family residential
<i>Future Land Use:</i>	Low Density Residential	<i>Future Land Use:</i>	Low Density Residential
<i>Zoning:</i>	A – Agricultural R5 – Residential R10 – Residential	<i>Zoning:</i>	R5 – Residential R10 – Residential P – Public
<i>Uses Allowed:</i>	A – Agricultural R5 – Single-family residential R10 – Single and two-family residential	<i>Uses Allowed:</i>	R5 – Single-family residential R10 – Single and two-family residential P - Public
<i>Max Density:</i>	A – 1 unit / 40 acres R5 – 5 units / acre R10 – 10 units / acre	<i>Max Density:</i>	R5 – 5 units / acre R10 – 10 units / acre P – Public

(continued)

## Property History

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<i>Zoned:</i>	2/2020 (partial) 9/2013 (Eagle Crest 6 <sup>th</sup> Addition)	<i>Platted:</i>	9/2013 (partial)	<i>Annexed:</i>	9/2013 (Partial)
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## Staff Analysis

Tyler Coulee, LLP, Bismarck North Developers, LLC, Ron Knutson, Henry and Jeanette Albers, and Paulette Thurn and Michael Hoffman are requesting approval of an annexation, zoning change from the A – Agriculture, R5 – Residential, and R10 – Residential zoning districts to the R5 – Residential, R10 – Residential and P – Public zoning districts, and major subdivision final plat for Elk Ridge Third Addition.

Adjacent uses include single-family residential to the north and east; developing single and two-family residential, a neighborhood park and an elementary school to the west across Tyler Parkway; and undeveloped property along with a mix of single and two-family residential to the south.

The Planning and Zoning Commission considered this request at their meeting of February 24, 2021 and called for a public hearing on the zoning change and tentatively approved the preliminary plat. The Post-Construction Stormwater Management Permit (PCSMP), was conditionally approved February 22, 2021, pending a Jurisdictional Determination (JD) from the US Army Corp of Engineers for the existing wetlands within the proposed plat. Upon completion of the JD, a subsequent Section 404 permit was also required for the proposed plat. The Section 404 permit was recently issued, meeting the requirements of the PCSMP Conditional Approval.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on April 15<sup>th</sup> and April 22<sup>nd</sup>, and 109 letters were

mailed to the owners of nearby properties on April 12<sup>th</sup>.

### *Background information*

A Future Land Use Plan amendment to modify the boundary between the Low Density Residential (LDR) and Conservation (C) land use designations and a zoning change from the A – Agricultural zoning district to the A – Agricultural, R5 – Residential and R10 – Residential zoning districts for the proposed plat were approved for this area by the Bismarck City Commission in February 2020.

The LDR land use designation allows for single and two-family residential uses and calls for densities in a range from 1 to 4 units per acre. The C land use designation allows for areas such as streams, greenways, trail corridors, and wetlands maintained as permanent open space. The proposed plat includes two federally designated wetlands.

Since the preliminary plat was approved the proposed plat boundary was extended slightly to the north to include 1 lot and 1 parcel in Eagle Crest 6<sup>th</sup> Addition. These lots will be replatted as Lot 1, Block 1 and Lot 1, Block 4 of the proposed plat.

All of Tyler Parkway adjacent to the proposed plat is proposed to be annexed. City staff will initiate the annexation of Tyler Parkway north to Ash Coulee Drive when easements from adjacent property owners are received.

(continued)

*Conformance with Plans*

The 2014 Fringe Area Road Master Plan, as amended, identifies Tyler Parkway as the north-south arterial roadway for this area. The proposed plat includes a cul-de-sac named Ruminant Circle. The applicant has submitted a written justification for the use of a cul-de-sac noting that the coulee area in the proposed plat would limit the further extension of the roadway. Staff is supportive of the requested cul-de-sac waiver.

The Growth Phasing Plan in the 2014 Growth Management Plan, as amended, identifies the area included in the proposed plat as a future area. Utilities necessary to serve the subdivision would be extended from existing roadways and the installation of municipal utilities and infrastructure would be done in accordance with the City's development policy.

*Topography and Slopes*

The proposed plat includes portions of Tyler Coulee. The topography adjacent to the coulee is steep and portions of the residential lots adjacent to the coulee include a slope protection easement. A note has been placed on the proposed plat that requires natural vegetation within the slope protection easement and prohibits building, irrigation, and grading activity within the area. This note is a result of a geotechnical study completed for the area.

*Parks and Open Space*

The Bismarck Parks and Recreation District approved a Neighborhood Park Development Agreement for Elk Ridge Addition in 2018. The neighborhood park created with the agreement would also serve this plat.

Portions of Tyler Coulee are included within the proposed plat. A multi-use trail is proposed to be located within Lot 50, Block 3, while Lot 48, Block 3 has been designated as the multi-use trail head

with parking lot. Lot 14, Block 3 is an unbuildable lot that will be utilized as a trail easement from Tyler Parkway.

*Utility Capital Charge*

The creation of any new lots in the corporate limits is subject to utility capital charges for municipal utilities. Utility capital charges are due at the latter of three points: annexation and platting; water and sewer escrow; or petition for street improvement.

**Required Findings of Fact** (relating to land use)*Annexation*

1. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the annexation at the time the property is developed;
2. The proposed annexation is a logical and contiguous extension of the current corporate limits of the City of Bismarck;
3. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance;
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
5. The proposed annexation would not adversely affect the public health, safety and general welfare.

*Zoning Change*

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended;

(continued)

2. The proposed zoning change is compatible with adjacent land uses and zoning;
  3. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;
  4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
  5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
  6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
  7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
  8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.
3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
  4. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
  5. The proposed subdivision would not adversely affect the public health, safety and general welfare.

### **Staff Recommendation**

Based on the above findings, staff recommends approval of the annexation; the zoning change from the A – Agriculture, R5 – Residential, and R10 – Residential zoning districts to the R5 – Residential, R10 – Residential and P – Public zoning districts; and the major subdivision final plat for Elk Ridge Third Addition, including granting a waiver for use of a cul-de-sac (Ruminant Circle).

### **Attachments**

1. Draft Annexation Ordinance
2. Draft Zoning Ordinance
3. Location Map – Plat and Zoning
4. Location Map - Annexation
5. Aerial Map
6. Zoning and Plan Reference Map
7. Final Plat
8. Preliminary Plat
9. Cul-de-sac Waiver

### ***Final Plat***

1. All technical requirements for approval of a major subdivision final plat have been met;
2. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP) with written concurrence from the County Engineer;



*Staff report prepared by:* Jenny Wollmuth, AICP, CFM, Senior Planner  
701-355-1845 | [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)

## ORDINANCE NO. XXXX

*First Reading* \_\_\_\_\_

*Second Reading* \_\_\_\_\_

*Final Passage and Adoption* \_\_\_\_\_

AN ORDINANCE ANNEXING PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, DECLARING THE TERRITORY ANNEXED; DECLARING THE SAME TO BE A PART OF THE CORPORATE LIMITS OF SAID CITY.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA:

Section 1. Territory Annexed. The territory and land hereinafter described is hereby declared and found to be a part of the corporate limits of the City of Bismarck, Burleigh County, North Dakota, as follows:

That part of Lot 1, Block 1 and Lot 1, Block 4, and adjoining Kites Lane right-of-way not previously annexed as part of Eagle Crest Sixth Addition; Lots 2-25, Block 1, and adjoining Kites Lane and Cogburn Road rights-of-way; Lot 1, Block 2, and adjoining Kites Lane and Cogburn Road rights-of-way; Lots 13-50, Block 3, and adjoining Kites Lane, Ruminant Circle, Marsh Hawk Drive and Cogburn Road rights-of-way; all of the Tyler Parkway right-of-way adjacent to Elk Ridge Third Addition and the West half of Tyler Parkway beginning at the centerline of Prairie Hawk Drive south adjacent to Blocks, 5, 6 and 7, Elk Ridge Addition.

The above described tract of land contains 90.33 acres, more or less.

Section 2. Provisions Applicable. From and after the final passage and adoption of this ordinance and upon recording of this ordinance with the Burleigh County Recorder, the territory herein described shall be a part of the corporate limits of the City of Bismarck, Burleigh County, North Dakota.

## ORDINANCE NO. XXXX

<i>First Reading</i>	_____
<i>Second Reading</i>	_____
<i>Final Passage and Adoption</i>	_____
<i>Publication Date</i>	_____

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE 1986 CODE OF ORDINANCES, OF THE CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, AS AMENDED, RELATING TO THE BOUNDARIES OF ZONING DISTRICTS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the A – Agricultural zoning district, the R5 – Residential zoning district, and the R10 – Residential zoning district included in the R5 – Residential zoning district:

Lot 1, Block 1; Lot 1-47 and Lot 49, Block 3; Lots 1-9, Block 4, Elk Ridge Third Addition

The following described property shall be excluded from the A – Agricultural zoning district, the R5 – Residential zoning district, and the R10 – Residential zoning district included in the R10 – Residential zoning district:

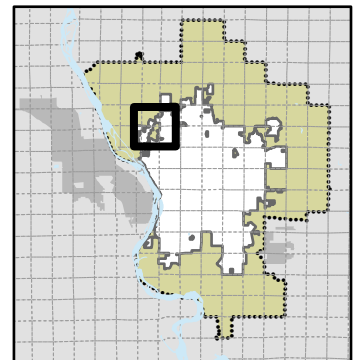
Lots 2-25, Block 1; Lots 1- 14, Block 2, Elk Ridge Third Addition

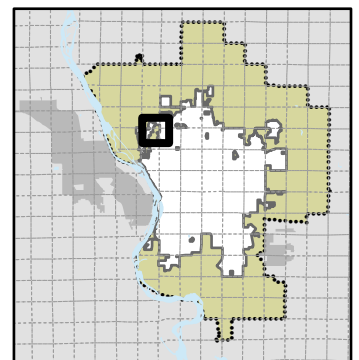
The following described property shall be excluded from the A – Agricultural zoning district, the R5 – Residential zoning district, and the R10 – Residential zoning district included in the P - Public zoning district:

Lot 48 and Lot 50, Block 3, Elk Ridge Third Addition

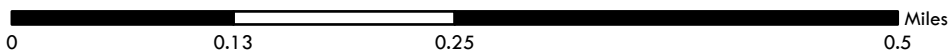
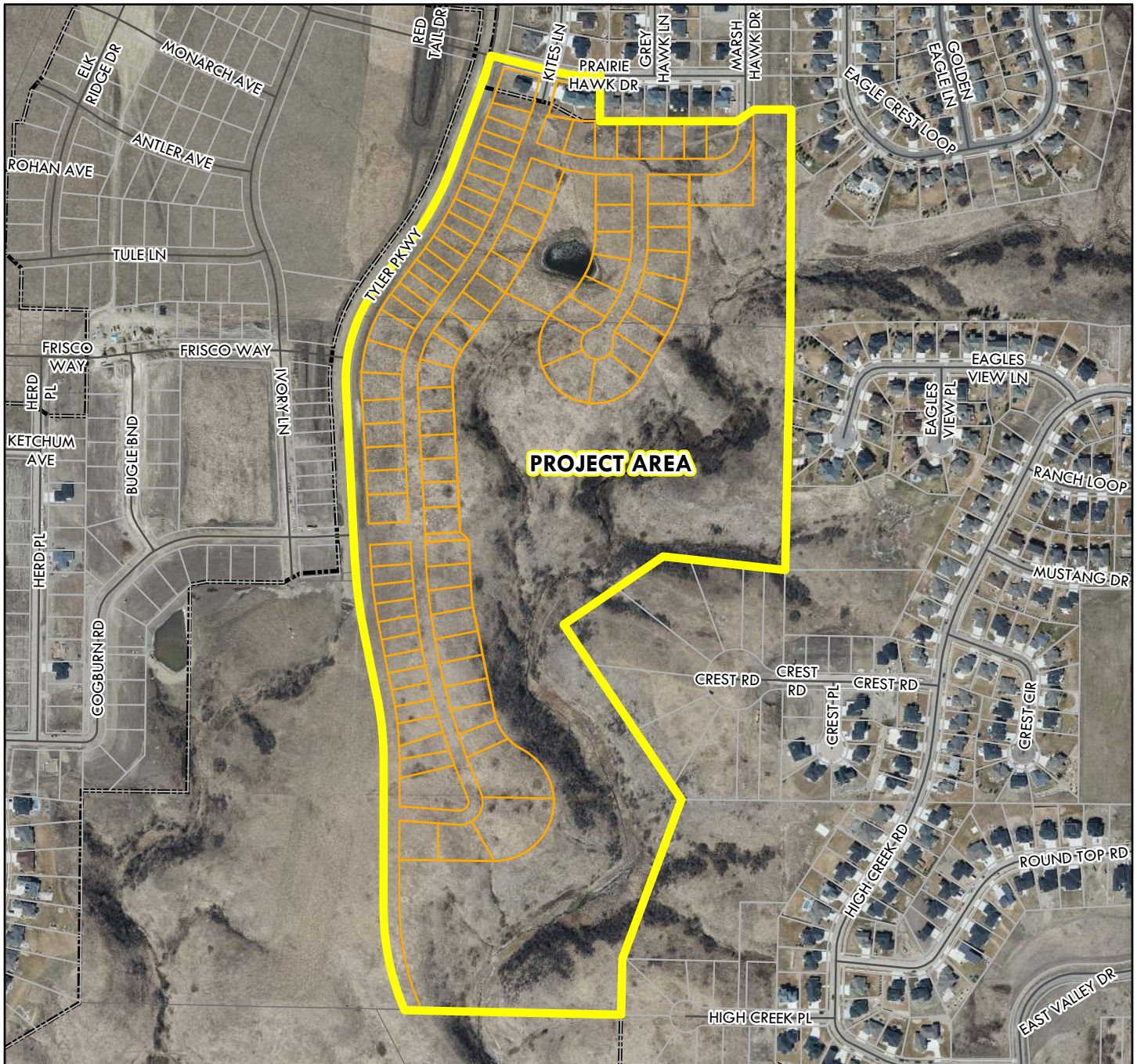
Section 2. Repeal. All ordinances or parts of ordinances in conflict with this ordinance area hereby repealed.

Section 3. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.







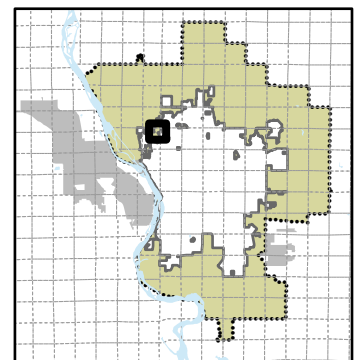


City Limits Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

City of Bismarck  
Finance Department  
IT/GIS Division  
April 22, 2022

*This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.*







# Zoning and Plan Reference Map

ELK RIDGE THIRD ADDITION

FPLT2021-003  
ZC2021-001

## Zoning Districts

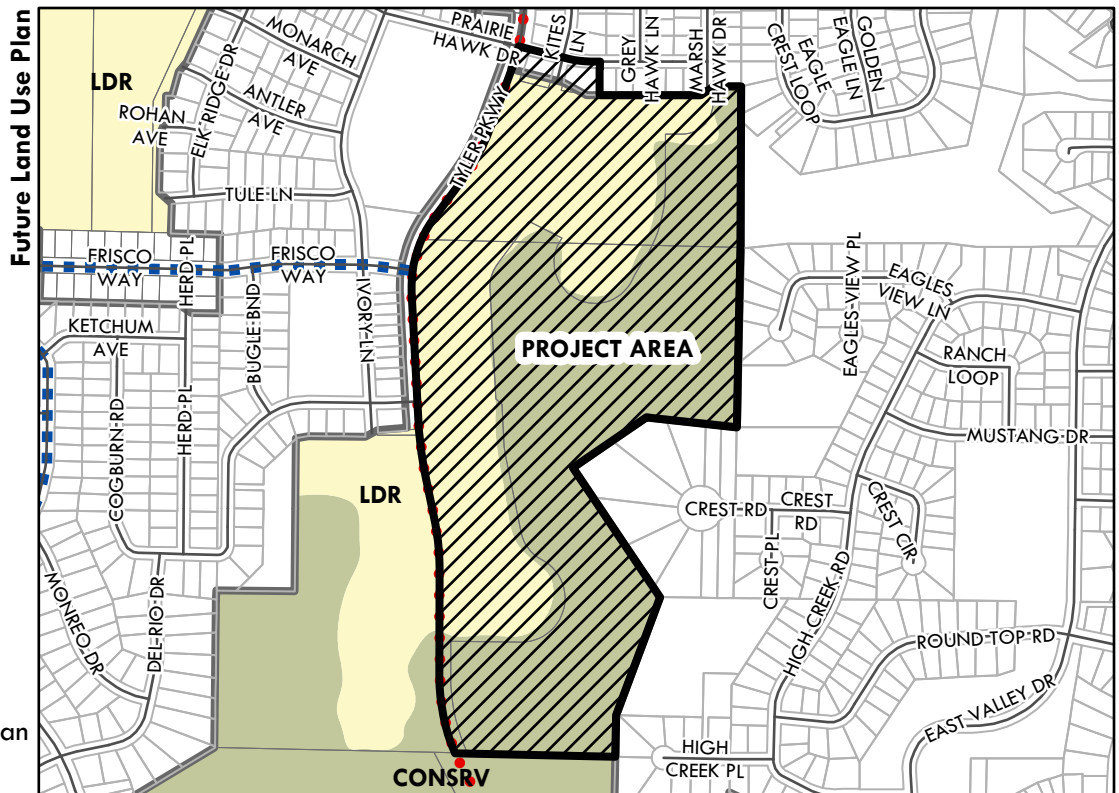
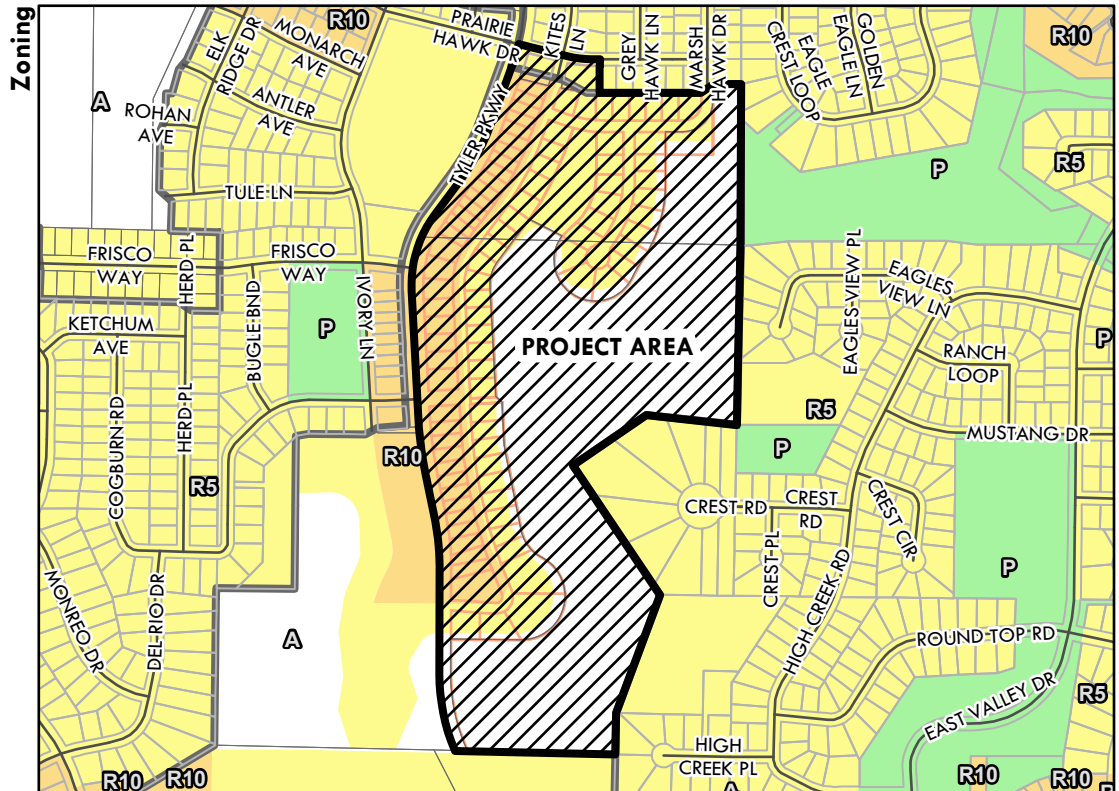
<b>A</b>	Agriculture
<b>RR</b>	Rural
<b>R5</b>	Residential
<b>RMH</b>	Manufactured Home Residential
<b>R10</b>	Residential
<b>RM</b>	Residential Multifamily
<b>RT</b>	Residential (Offices)
<b>HM</b>	Health and Medical
<b>CA</b>	Commercial
<b>CG</b>	Commercial
<b>MA</b>	Industrial
<b>MB</b>	Industrial
<b>PUD</b>	Planned Unit Development
<b>DC</b>	Downtown Core
<b>DF</b>	Downtown Fringe

## Future Land Use Plan

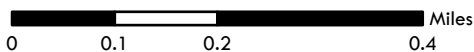
<b>CONSRV</b>	Conservation
<b>BP</b>	Business Park
<b>C</b>	Commercial
<b>C/MU</b>	Commercial/Mixed Use
<b>CIVIC</b>	Civic
<b>HDR</b>	High Density Residential
<b>I</b>	Industrial
<b>LDR</b>	Low Density Residential
<b>MDR</b>	Medium Density Residential
<b>MDR-/MU</b>	Medium Density Residential/Mixed Use
<b>O/MU</b>	Office/Mixed Use
<b>RR-C</b>	Clustered Rural Residential
<b>RR</b>	Standard Rural Residential
<b>UR</b>	Urban Reserve

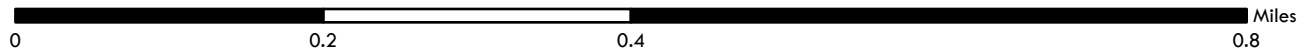
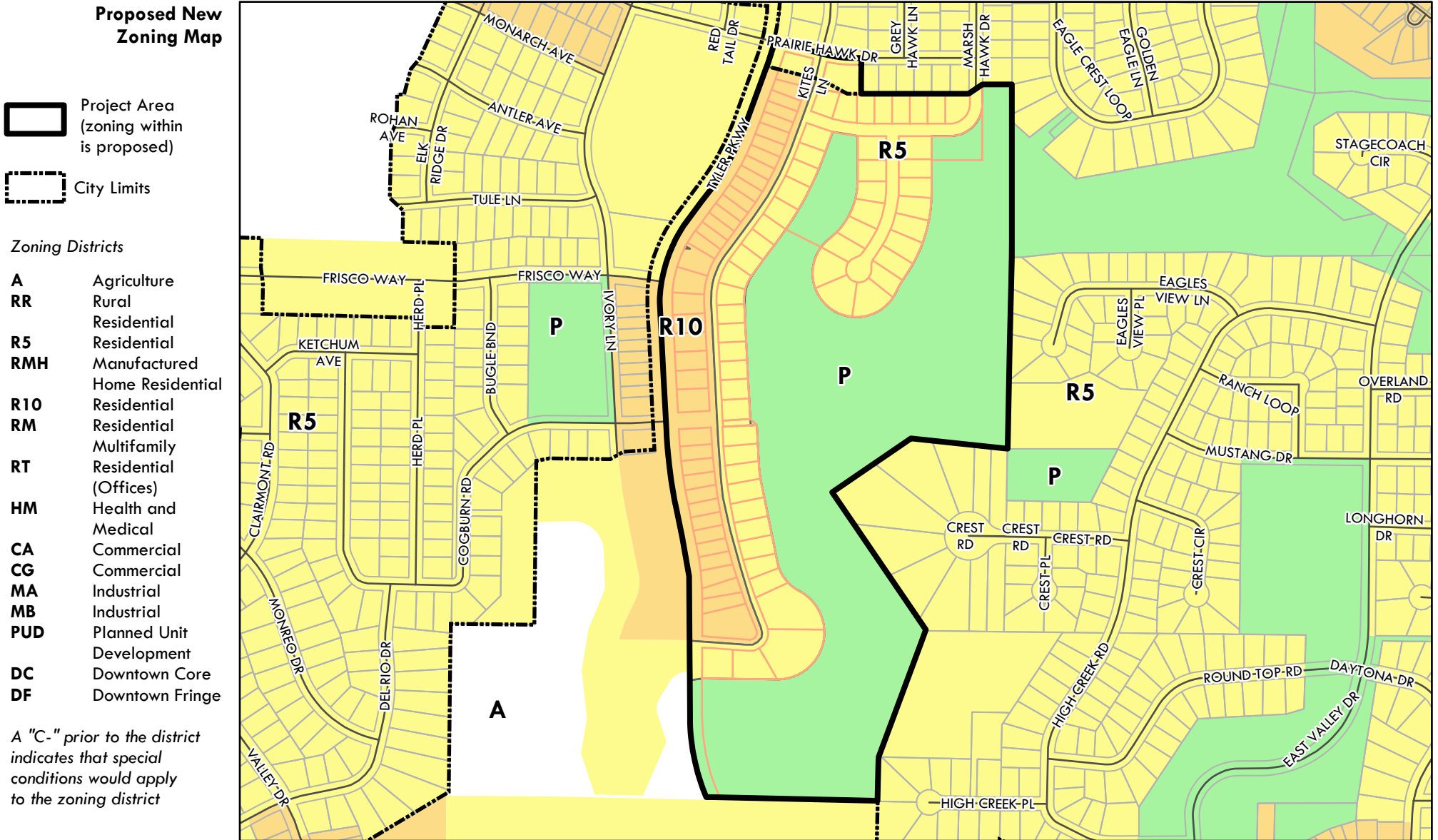
## Fringe Area Road Master Plan

- ● ● Future Arterial Road
- ■ ■ Future Collector Road



This map is for representational use only and does not represent a survey.  
No liability is assumed as to the accuracy of the data delineated herein.





# ELK RIDGE THIRD ADDITION

BEING AUDITOR'S LOT A OF THE SE 1/4 OF SECTION 18, LOT 1 BLOCK 4 & LOTS 1-2 BLOCK 3 EAGLE CREST SIXTH ADDITION & PART OF THE SE 1/4 OF SECTION 18 & PART OF THE NE 1/4 OF SECTION 19 TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

## DESCRIPTION

BEING AUDITOR'S LOT A OF THE SE 1/4 OF SECTION 18, LOT 1 BLOCK 4 & LOTS 1-2 BLOCK 3 EAGLE CREST SIXTH ADDITION & PART OF THE SE 1/4 OF SECTION 18 & PART OF THE NE 1/4 OF SECTION 19, TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN, BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

## DESCRIPTION AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 18 BLOCK 1 EAGLE CREST EIGHTH ADDITION; THENCE NORTH 01 DEGREE 12 MINUTES 12 SECONDS EAST, ALONG THE BOUNDARY OF SAID EAGLE CREST EIGHTH ADDITION, A DISTANCE OF 213.00 FEET; THENCE NORTH 20 DEGREES 24 MINUTES 28 SECONDS EAST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 647.15 FEET; THENCE NORTH 13 DEGREES 56 MINUTES 23 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 802.86 FEET; THENCE NORTH 55 DEGREES 35 MINUTES 34 SECONDS EAST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 458.54 FEET; THENCE SOUTH 83 DEGREES 39 MINUTES 06 SECONDS EAST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 487.40 FEET TO THE EAST LINE OF THE NE 1/4 OF SECTION 19, TOWNSHIP 139 NORTH, RANGE 80 WEST; THENCE NORTH 01 DEGREE 10 MINUTES 01 SECOND EAST, ALONG SAID EAST LINE, A DISTANCE OF 921.89 FEET TO THE NORTHEAST CORNER OF SAID NE 1/4; THENCE NORTH 00 DEGREES 16 MINUTES 45 SECONDS EAST, ALONG THE EAST LINE OF THE SE 1/4 OF SECTION 18, TOWNSHIP 139 NORTH, RANGE 80 WEST, A DISTANCE OF 831.00 FEET TO THE BOUNDARY OF EAGLE CREST SIXTH ADDITION; THENCE SOUTH 89 DEGREES 59 MINUTE 32 SECONDS WEST, ALONG SAID BOUNDARY, A DISTANCE OF 140.81 FEET; THENCE SOUTH 56 DEGREES 08 MINUTES 31 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 79.71 FEET; THENCE SOUTH 89 DEGREES 59 MINUTES 32 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 520.14 FEET TO THE SOUTHWEST CORNER OF LOT 1 BLOCK 3 EAGLE CREST SIXTH ADDITION; THENCE NORTH 03 DEGREES 15 MINUTES 27 SECONDS EAST, ALONG THE WEST LINE OF SAID LOT 3, AND ITS NORTHERLY EXTENSION, A DISTANCE OF 172.28 FEET TO THE CENTERLINE OF FRANKLIN HARBOR DRIVE RIGHT-OF-WAY; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, ALONG SAID CENTERLINE, A DISTANCE OF 44.45 FEET; THENCE WESTERLY AND TO THE RIGHT, CONTINUING ALONG SAID CENTERLINE, ON A 500.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 122.17 FEET; THENCE NORTH 76 DEGREES 00 MINUTES 00 SECONDS WEST, CONTINUING ALONG SAID CENTERLINE, A DISTANCE OF 259.92 FEET TO THE EAST LINE OF ELK RIDGE SECOND ADDITION; THENCE SOUTHERLY AND TO THE RIGHT, ALONG SAID EAST LINE, ON A 1000.00 FOOT RADIUS CURVE, THE RADIUS OF WHICH BEARS NORTH 76 DEGREES 00 MINUTES 23 SECONDS WEST AN ARC LENGTH OF 106.81 FEET; THENCE SOUTH 20 DEGREES 09 MINUTES 49 SECONDS WEST, CONTINUING ALONG SAID EAST LINE, A DISTANCE OF 351.89 FEET; THENCE SOUTHWESTERLY AND TO THE RIGHT, ON A 1,120.00 FOOT RADIUS CURVE, CONTINUING ALONG SAID EAST LINE, AN ARC LENGTH OF 322.66 FEET; THENCE SOUTH 38 DEGREES 37 MINUTES 12 SECONDS WEST, CONTINUING ALONG SAID CENTERLINE, A DISTANCE OF 226.70 FEET; THENCE SOUTHERLY AND TO THE LEFT, ON A 600.00 FOOT RADIUS CURVE CONTINUING ALONG SAID EAST LINE, AN ARC LENGTH OF 44.59 FEET; THENCE SOUTH 02 DEGREES 58 MINUTES 12 SECONDS EAST, CONTINUING ALONG SAID EAST LINE, A DISTANCE OF 648.87 FEET; THENCE SOUTHERLY AND TO THE LEFT, ON A 2,000.00 FOOT RADIUS CURVE, CONTINUING ALONG SAID EAST LINE AND THE CONTINUATION OF SAID CURVE, AN ARC LENGTH OF 288.11 FEET; THENCE SOUTH 02 DEGREES 58 MINUTES 12 SECONDS EAST, A DISTANCE OF 250.93 FEET; THENCE SOUTHERLY AND TO THE RIGHT, ON A 1,120.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 264.9 FEET; THENCE SOUTH 02 DEGREES 58 MINUTES 12 SECONDS WEST, A DISTANCE OF 96.47 FEET; THENCE SOUTHERLY AND TO THE LEFT, ON A 1,000.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 403.53 FEET TO THE SOUTH LINE OF THE NE 1/4 OF SECTION 19, TOWNSHIP 139 NORTH, RANGE 80 WEST; THENCE SOUTH 88 DEGREES 45 MINUTES 23 SECONDS EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 824.64 FEET TO THE POINT OF BEGINNING.

CONTAINING 99.91 ACRES, MORE OR LESS.

## SURVEYOR'S CERTIFICATE

I, TERRY BALTZER, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE APPROVED PLAT IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPILED ON THE DATE OF THE SURVEY. THAT THE INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT ALL MONUMENTS SHOWN HEREON ARE CORRECT, THAT ALL REQUIRED MONUMENTS HAVE BEEN SET, AND THAT ALL DIMENSIONAL AND GEODETIC DETAILS ARE CORRECT.

SWENSON, HAGEN & CO. P.C.  
809 BASIN AVENUE  
BISMARCK, NORTH DAKOTA  
58504

TERRY BALTZER  
PROFESSIONAL LAND SURVEYOR  
N.D. REGISTRATION NO. 3595

## APPROVAL OF CITY PLANNING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THE PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK, ON THE \_\_\_\_\_, 2022, IN ACCORDANCE WITH LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK AND REGULATIONS ADOPTED BY THE SAID PLANNING COMMISSION. WITNESS WHEREOF ARE SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

MICHAEL J. SCHWARTZ - CHAIRMAN

ATTEST  
BEN EHRETH - SECRETARY

## APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE PLAT, HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN THEREON, HAS APPROVED THE GROUNDS AS SHOWN ON THE APPROVED PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THE APPROVED PLAT.

THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

ATTEST  
KEITH J. HUNKE - CITY ADMINISTRATOR

## APPROVAL OF CITY ENGINEER

I, GABRIEL J. SCHELL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE "ELK RIDGE THIRD ADDITION", BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA AS SHOWN ON THE PLAT.

GABRIEL J. SCHELL  
CITY ENGINEER

## OWNERS' CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT BISMARCK NORTH DEVELOPERS, LLC, TYLER COULLE, LLP, RON KNUTSON, HENRY ALBERS, JEANETTE ALBERS, MICHAEL HOFFMAN, AND PAULETTE THURN, BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN HEREON HAVE CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "ELK RIDGE THIRD ADDITION", BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, AND DO SO DEDICATE STREETS AS SHOWN HEREON INCLUDING ALL SEWER, CULVERTS, WATER AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HEREON OR NOT TO THE PUBLIC USE FOREVER.

THEY ALSO DEDICATE EASEMENTS TO THE CITY OF BISMARCK TO RUN WITH THE LAND, FOR GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES ON OR UNDER THESE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS UTILITY EASEMENTS.

THEY ALSO DEDICATE SANITARY SEWER EASEMENTS TO THE CITY OF BISMARCK TO RUN WITH THE LAND FOR USE BY ALL LAND OWNING PARTIES TO CONSTRUCT, OPERATE, MAINTAIN AND REPAIR SANITARY SEWER FACILITIES UNDER OR UPON THOSE AREAS DESIGNATED AS SUCH. GRANTEE SHALL HAVE THE RIGHT TO INGRESS AND EGRESS ACROSS REAL PROPERTY OF GRANTOR FOR THE PURPOSES HEREIN GRANTED.

THEY FURTHERMORE DEDICATE UNTO THE CITY OF BISMARCK "STORM WATER AND DRAINAGE EASEMENTS" TO RUN WITH THE LAND FOR THE PURPOSE OF STORM SEWER AND SURFACE WATER DRAINAGE UNDER, OVER, THROUGH AND/OR ACROSS THOSE AREAS DEDICATED HEREON AS "STORM WATER AND DRAINAGE EASEMENTS" FOR THE PURPOSE OF CONSTRUCTION, RECONSTRUCTION, REPAIR, ENLARGING AND MAINTAINING STORM WATER MANAGEMENT FACILITIES TOGETHER WITH NECESSARY APPURTENANCES THERETO FOR STORM WATER, STORM SEWER AND SURFACE WATER DRAINAGE AND MANAGEMENT OF SAID STORM WATER FLOW IN A MANNER THAT WILL PERMIT THE FREE AND UNOBSTRUCTED FLOW OF WATER UNDER, OVER AND/OR ACROSS THE EASEMENT AREA.

STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH )

BISMARCK NORTH DEVELOPERS, LLC  
555 HIGHWAY 1804 NE  
BISMARCK, ND 58503

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022, BEFORE ME PERSONALLY APPEARED \_\_\_\_\_ OF BISMARCK, NORTH DAKOTA, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES \_\_\_\_\_

STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH )

TYLER COULLE, LLP  
555 HIGHWAY 1804 NE  
BISMARCK, ND 58503

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022, BEFORE ME PERSONALLY APPEARED \_\_\_\_\_ OF TYLER COULLE, LLP, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES \_\_\_\_\_

STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH )

HENRY ALBERS  
CO-OWNER, LOT 1 BLOCK 4

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022, BEFORE ME PERSONALLY APPEARED HENRY ALBERS, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES \_\_\_\_\_

STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH )

JEANETTE ALBERS  
CO-OWNER, LOT 1 BLOCK 4

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022, BEFORE ME PERSONALLY APPEARED JEANETTE ALBERS, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES \_\_\_\_\_

STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH )

MICHAEL HOFFMAN  
CO-OWNER, LOT 1 BLOCK 1

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022, BEFORE ME PERSONALLY APPEARED MICHAEL HOFFMAN, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES \_\_\_\_\_

STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH )

PAULETTE THURN  
CO-OWNER, LOT 1 BLOCK 1

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022, BEFORE ME PERSONALLY APPEARED PAULETTE THURN, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

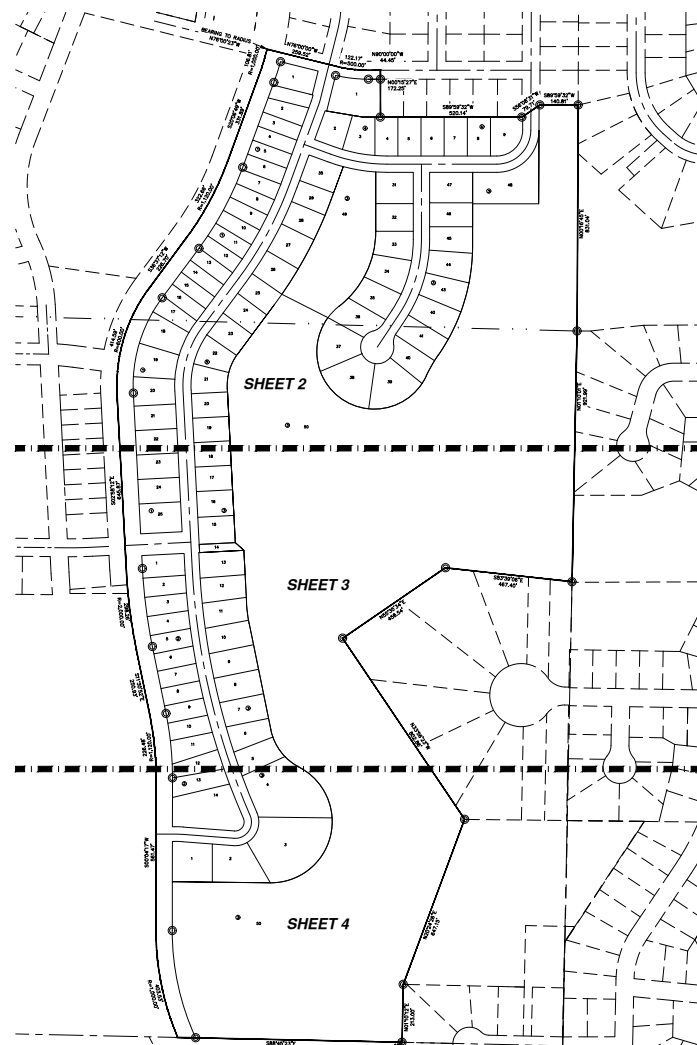
NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES \_\_\_\_\_

STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH )

RON KNUTSON

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022, BEFORE ME PERSONALLY APPEARED RON KNUTSON, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES \_\_\_\_\_



## NOTES

BASE OF BEARING:  
NORTH DAKOTA STATE PLANE, SOUTH ZONE BY  
CITY ORDINANCE

COORDINATE DATUM:  
NORTH DAKOTA STATE PLANE COORDINATE  
SYSTEM  
NAD 83 SOUTH ZONE  
ADJUSTMENT OF 1986  
UNITS ARE INTERNATIONAL FEET

BEARINGS AND DISTANCES MAY VARY FROM  
PREVIOUS PLATS DUE TO DIFFERENT METHODS  
OF MEASUREMENTS.

VERTICAL BENCHMARK:  
HYD #2330, ELEV. 1864.85 (NVD 19)  
ROOSEVELT DRIVE & 4RD AVE

LOT 14 BLOCK 3 IS NON-BUILDABLE



APRIL 21, 2022

- MONUMENT TO BE SET
- MONUMENT IN PLACE

## AREA DATA

LOTS	1,800,764.57	67.39 ACRES
TOWNSHIP	1,245,100.00	19.20 ACRES
RANGE	2,300,230.57	37.20 ACRES

## AREA DATA

SE 1/4-18	1,155,484.51	17.27 ACRES
NE 1/4-19	1,196,455.51	17.24 ACRES

## SLOPE PROTECTION RESTRICTION NOTE:

THE PURPOSE OF THESE RESTRICTIONS IS TO PROHIBIT ANY ACTIVITY THAT COULD AFFECT THE EROSION OR STABILITY OF THE SLOPES. EACH OF LOTS 1-50 BLOCK 3 ELK RIDGE THIRD ADDITION, HAS A SLOPE PROTECTION EASEMENT AND DEVELOPMENT LIMITATIONS:

- 1.) THE NATURAL VEGETATION WITHIN THE SLOPE PROTECTION EASEMENT SHALL BE LEFT UNDISTURBED.
- 2.) GRADING, EXCAVATION, FILLING, TERRACING, STOCKPILING OF MATERIAL OR EQUIPMENT, OR ANY OTHER SURFACE ALTERATIONS ARE NOT ALLOWED.
- 3.) IRRIGATION OF THE SLOPE PROTECTION EASEMENT IS NOT ALLOWED.

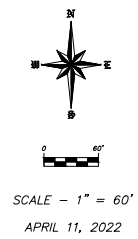
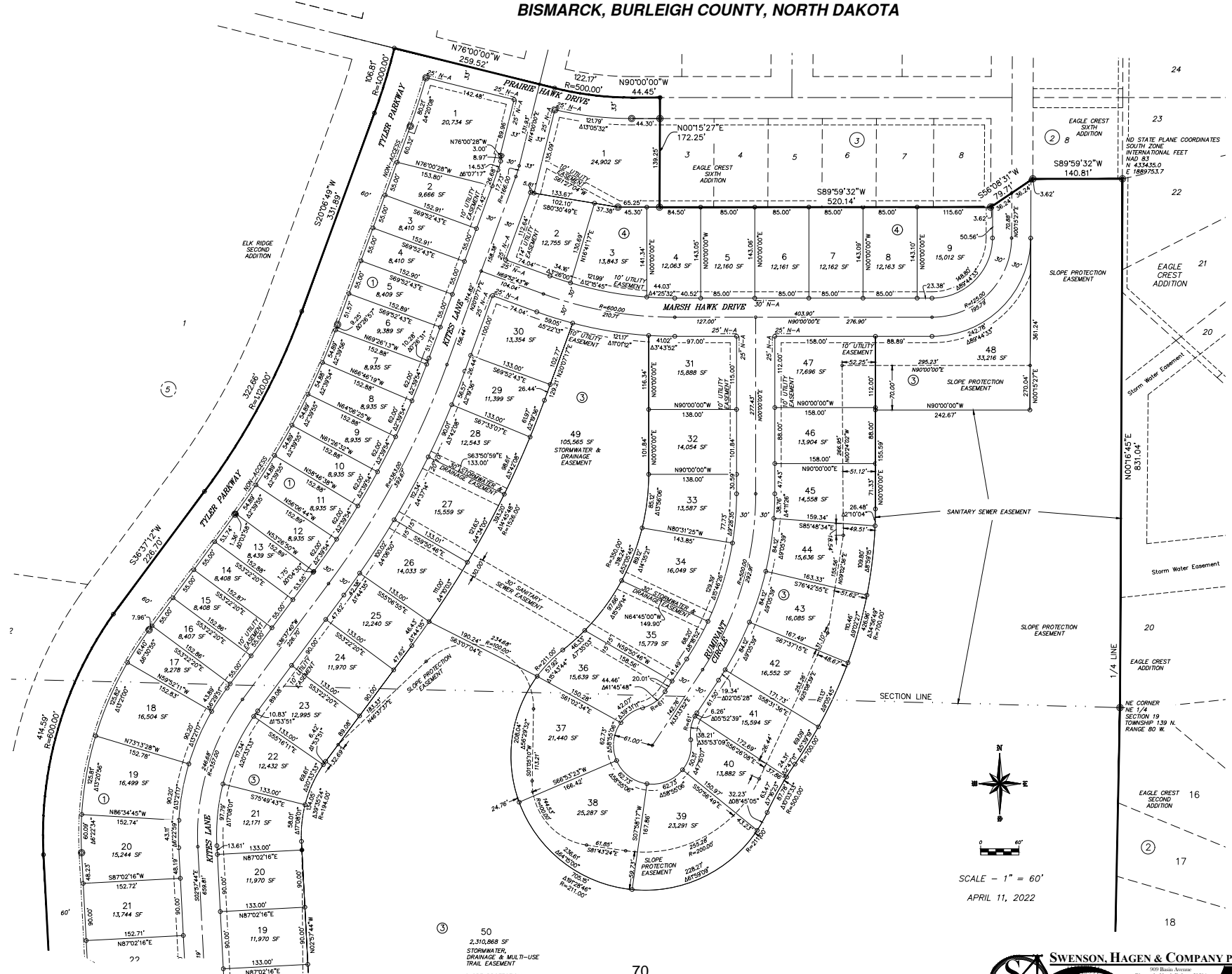
FOR INSPECTION AND MONITORING PURPOSES, IT IS THE POLICY OF BISMARCK PERSONNEL WILL BE ALLOWED ACCESS UNTO THE SLOPE PROTECTION EASEMENT.



# ELK RIDGE THIRD ADDITION

BEING AUDITOR'S LOT A OF THE SE 1/4 OF SECTION 18, LOT 1 BLOCK 4 & LOTS 1-2 BLOCK 3  
EAGLE CREST SIXTH ADDITION & PART OF THE SE 1/4 OF SECTION 18 &  
PART OF THE NE 1/4 OF SECTION 19 TOWNSHIP 139 NORTH, RANGE 80 WEST  
OF THE FIFTH PRINCIPAL MERIDIAN

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



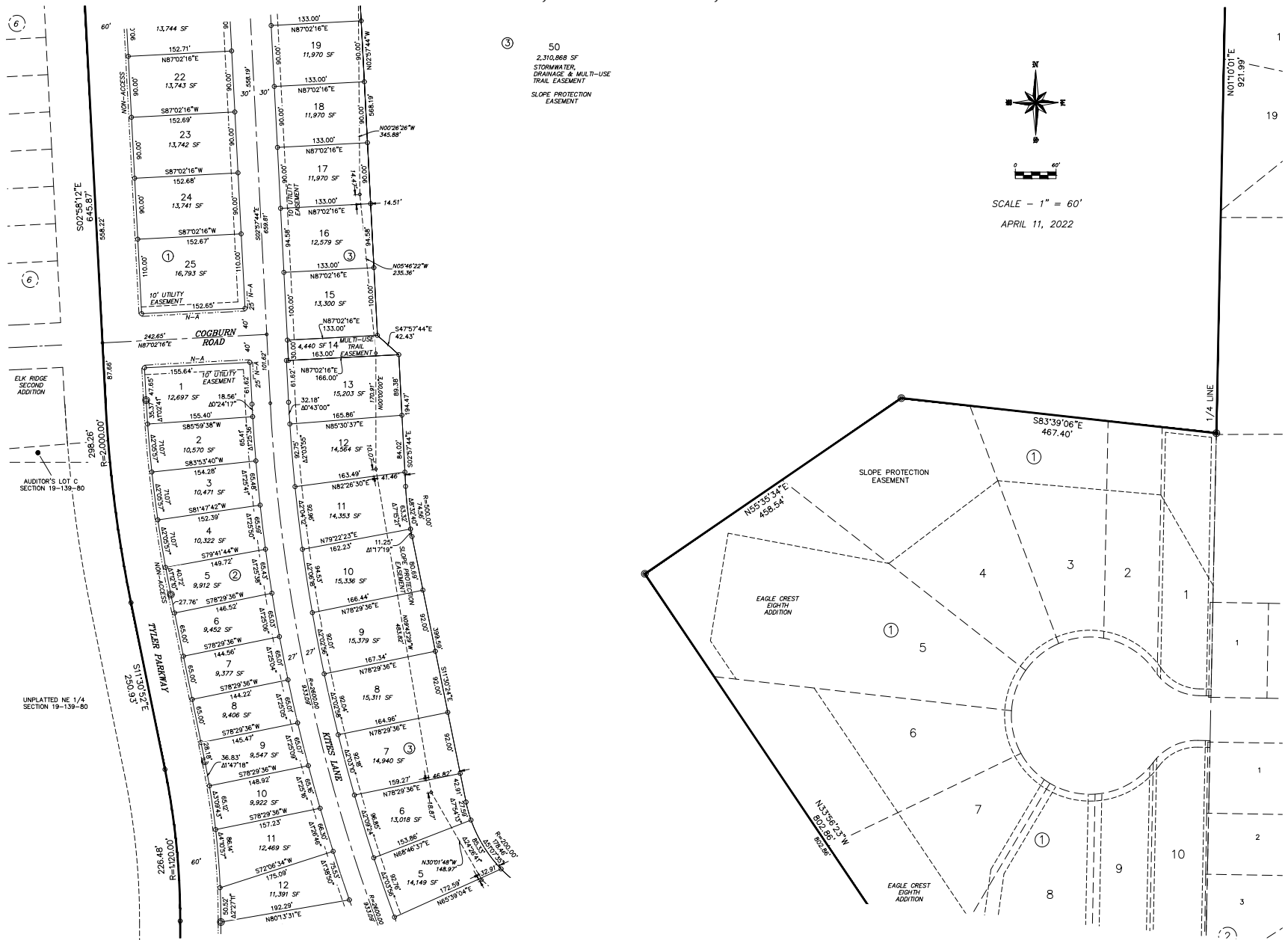
SCALE - 1" = 60'  
APRIL 11, 2022



# ELK RIDGE THIRD ADDITION

BEING AUDITOR'S LOT A OF THE SE 1/4 OF SECTION 18, LOT 1 BLOCK 4 & LOTS 1-2 BLOCK 3  
EAGLE CREST SIXTH ADDITION & PART OF THE SE 1/4 OF SECTION 18 &  
PART OF THE NE 1/4 OF SECTION 19 TOWNSHIP 139 NORTH, RANGE 80 WEST  
OF THE FIFTH PRINCIPAL MERIDIAN

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



SCALE - 1" = 60'  
APRIL 11, 2022

BEING AUDITOR'S LOT A OF THE SE 1/4 OF SECTION 18, LOT 1 BLOCK 4 & LOTS 1-2 BLOCK 3  
EAGLE CREST SIXTH ADDITION & PART OF THE SE 1/4 OF SECTION 18 &  
PART OF THE NE 1/4 OF SECTION 19 TOWNSHIP 139 NORTH, RANGE 80 WEST  
OF THE FIFTH PRINCIPAL MERIDIAN

[illegible]

# ELK RIDGE THIRD ADDITION

AUDITOR'S LOT A OF THE SE 1/4 OF SECTION 18 &  
PART OF THE SE 1/4 OF SECTION 18 &  
PART OF THE NE 1/4 OF SECTION 19  
TOWNSHIP 139 NORTH, RANGE 80 WEST

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



# ELK RIDGE THIRD ADDITION

AUDITOR'S LOT A OF THE SE 1/4 OF SECTION 18 &  
PART OF THE SE 1/4 OF SECTION 18 &  
PART OF THE NE 1/4 OF SECTION 19  
TOWNSHIP 139 NORTH, RANGE 80 WEST

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA





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## SWENSON, HAGEN & CO. P.C.

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civil engineering . surveying . land planning . hydrology  
landscape & site design . construction management

### Elk Ridge Third Addition

#### Use of cul-de-sac waiver

As shown on the attached Elk Ridge Third Addition preliminary plat, the existing grades west of the proposed Ruminant Circle & east of Kites Lane rights-of-way, shown on the exhibit as a stormwater & drainage easement, is a natural valley and part of the Tyler Coulee drainage area. By limiting the roadway to a cul-de-sac, rather than a looped system, the development can preserve larger areas of the coulee, while developing the adjacent lands that are the adjoining it.

Additionally, there is a proposed slope protection easement in the area of that would serve as the right-of-way to connect the two developable areas. If a roadway were used at this point, the stormwater & drainage area adjacent to Marsh Hawk Drive would need to be increased, which then would cause buildable lots to further encroach into the slope protection easement. By adding the right-of-way in this area, the majority of the road network would serve the stormwater & drainage easement and would provide access to only a small number of lots.

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909 Basin Avenue . Bismarck, North Dakota 58504  
(701) 223-2600 . (701) 223-2606 Fax  
sheng@swensonhagen.com



### Project Summary

<i>Title:</i>	Data Center Zoning Ordinance
<i>Status:</i>	Planning & Zoning Commission – Public Hearing
<i>Project Contact:</i>	Daniel Nairn, AICP, Senior Planner
<i>Section(s) Amended:</i>	Chapters 14-02-03, 14-03-08, 14-04-14, and 14-04-15
<i>Request:</i>	Amend zoning ordinance to allow data centers as a special use

### Staff Analysis

The Community Development Department is requesting approval of a zoning ordinance text amendment to allow data centers as a special use in the MA – Industrial zoning district and an administrative special use in the MB – Industrial zoning district. The ordinance establishes a set of standards that would apply in both zoning districts.

The Planning and Zoning Commission considered this request at their meeting of March 23, 2022 and called for a public hearing on this amendment to the zoning ordinance.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on April 15<sup>th</sup> and 22<sup>nd</sup>.

A data center would be defined as:

*“Any facility that primarily contains electronic equipment used to process, store, and transmit digital information. Uses that include data processing as ancillary to the principal use on the property shall not be considered a Data Center.”*

For example, a building or site that has computer servers, even with very high capacity, would not be considered a data center if the computing

supports a principal commercial or office use on the site. Private residences that use computers for a home occupation would, likewise, not be considered a data center. Data centers are uses in which the principal function of site is the computing function itself, or when the computing use has no functional connection to the principal use on the site.

#### *Background on Data Centers*

Data center is a broad term that can apply to the physical facilities for a range of computing operations, such as, but not limited to:

- Big data, machine learning, cloud computing, and artificial intelligence
- High-volume e-commerce transactions
- Powering online gaming communities
- Cryptocurrency mining operations

Traditional data centers are often very large facilities typically sited in industrial or rural areas. However, there has been considerable recent interest in smaller-scale and more portable operations. This is especially driven by demand for cryptocurrency mining, which is very power intensive but requires less network connectivity.

(continued)

These small-scale data centers tend to be unstaffed, housed in prefabricated structures, and implemented with lower costs and limited climate controls.

Because all data centers tend to consume high amounts of energy, they will typically be in proximity to transmission lines or substations. Traditional data centers also require significant water resources for cooling, and often have back-up power generation facilities to avoid interruptions. Portable operations are often willing to accept interrupted power.

### *Impact of Data Centers*

In terms of land use and zoning, the primary impacts of data centers are noise and fire. The computer processing, especially fans necessary for cooling, can emit a steady high-frequency noise, characterized in a recent Wall Street Journal article as a “giant dentist drill.”

The City of Bismarck already has a noise ordinance. The following is a summary of City Code of Ordinances Section 8-10-04:

	<b>Zoning</b>		
	Residential	Commercial	Industrial
Daytime (decibels)	55	65	80
Nighttime (decibels)	50	60	75

The proposed data center ordinance would not alter required noise levels but would require upfront verification that the noise levels will be met during all times of operation. Furthermore, data centers must be housed within a structure, which creates a noise barrier.

The other concern typically raised for data centers is fire protection. Fires can be caused by faulty

wiring, overheating of computing equipment, or short circuit from overloading the electrical network. Traditional data centers are typically equipped with fire suppression systems, although smaller-scale and more portable operations often employ limited protection. A stand-alone data center in one of our peer communities in North Dakota actually started on fire and was destroyed.

Primarily for this reason, the proposed ordinance requires data centers to be within code-compliant buildings, use proper environmental controls for cooling, and verify sufficient electrical capacity from the grid. These requirements together will effectively prohibit portable data centers within the City of Bismarck and its extraterritorial areas, while providing a clear pathway for approval of traditional data centers.

### **Required Findings of Fact** (relating to land use)

1. The proposed text amendment would not adversely affect the public health, safety or general welfare;
2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance;
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance; and
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

### **Staff Recommendation**

Based on the above findings, staff recommends approval of a zoning ordinance text amendment for Chapters 14-02-03, 14-03-08, 14-04-14, and 14-04-15 of the City Code of Ordinances, as

(continued)

presented in the draft ordinance attached to the staff report.

**Attachments**

1. Draft zoning ordinance amendment

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*Staff report prepared by:* Daniel Nairn, AICP, Senior Planner  
701-355-1854 | [dnairn@bismarcknd.gov](mailto:dnairn@bismarcknd.gov)

ORDINANCE NO. XXXX

*First Reading*  
*Second Reading*  
*Final Passage and Adoption*  
*Publication Date*

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AN ORDINANCE TO AMEND CHAPTERS 14-02-03, 14-03-08, 14-04-14, AND 14-04-15 OF THE CODE OF ORDINANCES OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO DATA CENTERS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amend. Chapter of the Code of Ordinances of the City of Bismarck, North Dakota, relating to Definitions, is hereby amended to read as follows:

Section 14-02-03 Definitions. The following definitions represent the meanings of terms as they are used in these regulations:

...

Comprehensive plan: A statement in documented text setting forth explicit goals, objectives, policies and standards of the jurisdiction to guide public and private development.

Data Center: Any facility that primarily contains electronic equipment used to process, store, and transmit digital information. Uses that include data processing as ancillary to the principal use on the property shall not be considered a Data Center.

Density: The number of families residing on, or dwelling units developed on, an acre of land.

...

14-03-08. Special Uses. In order to carry out the purposes of this title, the board of city commissioners finds it necessary to require that certain uses, because of unusual size, safety hazards, infrequent occurrence,

effect on surrounding area, or other reasons, be reviewed by the city planning and zoning commission and by the Zoning Administrator (where allowed) prior to the granting of a building permit or certificate of occupancy and that the city planning and zoning commission and the Zoning Administrator (where allowed) are hereby given limited discretionary powers relating to the granting of such permit or certificate.

...

z) Data Center. A data center may be permitted in any MA district as a special use or any MB district as an administrative special use provided:

- i. All data processing and storage is contained within a building constructed in compliance with the International Building Code and International Fire Code.
- ii. Written verification is submitted from the utility provider that sufficient capacity will be available to meet anticipated needs for electrical power.
- iii. Facilities are equipped with environmental controls to maintain the proper conditions for the operation of electronic equipment.
- iv. The applicant verifies at the time of application that all requirements of Chapter 8-10 (Noises) of the Bismarck Code of Ordinances will be met during operations, as measured from the property line of the subject parcel. Verification may be in the form of a noise study, manufacturer specifications, data from comparable facilities, or any combination thereof.

14-04-14. MA Industrial District: In any MA industrial district the following regulations shall apply:

...

2. Use permitted. The following uses are permitted.

...



The following uses are allowed as special uses pursuant to Section 14-03-08 hereof:

- a. Temporary Christmas tree sales.
- b. Temporary religious meetings.
- c. Temporary circus/fair/carnival.
- d. Temporary farm and garden produce sales.
- e. Temporary fireworks sales.
- f. Seasonal nursery and bedding stock sales.
- g. Solid waste disposal facility.
- h. Airport.
- i. Recreational vehicle park.
- j. Filling station.
- k. Drive-in retail or service establishment.
- l. Motor vehicle parts salvage yard.
- m. Small animal veterinary clinic.
- n. Animal hospital or kennel.
- o. Golf driving range.
- p. Junkyard.
- q. Retail liquor sales.
- r. Racetracks.
- s. Child care center.
- t. Asphalt production facilities, both permanent and temporary.
- u. Data center.

...

14-04-15. MB Industrial District. In any MB industrial district the following regulations shall apply:

...

2. Use permitted. The following uses are permitted.

...

The following uses are allowed as special uses pursuant to Section 14 03 08 hereof:

- a. Temporary Christmas tree sales.
- b. Temporary circus/fair/carnival.
- c. Temporary religious meeting.
- d. Seasonal nursery and bedding stock sales.
- e. Temporary fireworks sales.
- f. Temporary farm and garden produce sales.
- g. Airport.
- h. Solid waste disposal facility.
- i. Motor vehicle parts salvage yard.
- j. Small animal veterinary clinic.
- k. Animal hospital or kennel.
- l. Junkyard.
- m. Adult entertainment center.
- n. Auto laundry car wash.
- o. Vehicular racetrack.
- p. Hazardous material bulk storage plant.
- m. Data Center (administrative).

Section 2. Repeal. All ordinances or parts of ordinances in conflict with this ordinance area hereby repealed.

Section 3 Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

**BISMARCK PLANNING & ZONING COMMISSION  
MEETING MINUTES  
March 23, 2022**

The Bismarck Planning & Zoning Commission met on March 23, 2022, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5<sup>th</sup> Street. The meeting was held in person and via Zoom.

Commissioners present were Steve Bakken, Brian Bitner, Cole Johnson, Paul Levchak, Kevin Martin, Gabe Schell and Paul Zent.

Commissioners Vernon Laning, Mike Schwartz, Wendy Van Duyne and Trent Wangen were absent.

Staff members present were Hilary Balzum – Community Development Senior Administrative Assistant, Jannelle Combs – City Attorney, Ben Ehreth – Community Development Director, Will Hutchings – Senior Planner, Kim Lee – Planning Manager, Daniel Nairn – Senior Planner and Jenny Wollmuth – Senior Planner.

Mr. Ehreth brought to the attention of those present that while Chair Schwartz and Vice Chair Laning are unavailable for this meeting, the Planning and Zoning Commission should elect a Chair Pro Tem to preside over the meeting at this time.

**MOTION:** Commissioner Bakken made a motion to elect Commissioner Zent as Chair Pro Tem to preside over the meeting. Commissioner Johnson seconded the motion and the motion was unanimously approved with Commissioners Bakken, Bitner, Johnson, Levchak, Martin, Schell and Zent voting in favor of the motion.

Chair Pro Tem Zent presided and was present in the Tom Baker Meeting Room.

## **MINUTES**

Chair Pro Tem Zent called for consideration of the minutes of the February 23, 2022 meeting.

**MOTION:** Commissioner Bakken made a motion to approve the minutes of the February 23, 2022 meeting, as presented. Commissioner Levchak seconded the motion and it was unanimously approved with Commissioners Bakken, Bitner, Johnson, Levchak, Martin, Schell and Zent voting in favor of the motion.

## **CONSIDERATION**

- 2. BLOCKS 1 AND 2, MEADOW VILLAGE ADDITION – ZONING CHANGE**
- 3. BODEN ADDITION – ZONING CHANGE AND PRELIMINARY PLAT**
- 4. PARADISE VALLEY ADDITION – ZONING CHANGE, FRINGE AREA ROAD MASTER PLAN AMENDMENT AND PRELIMINARY PLAT**
- 5. DATA CENTER ORDINANCE – ZONING ORDINANCE TEXT AMENDMENT**

**MOTION:** Based on the findings contained in the staff report, Commissioner Bakken made a motion to approve consent agenda items 2, 3, 4 and 5, calling for a public hearing on or granting tentative approval of the items as recommended

by staff. Commissioner Johnson seconded the motion and it was unanimously approved with Commissioners Bakken, Bitner, Johnson, Levchak, Martin, Schell and Zent voting in favor of the motion.

*(Secretary's Note: While a public hearing was not advertised or offered on Consent Agenda Item #3, requests for a zoning change and preliminary plat for Boden Addition, multiple public comments on the item were received and are attached as Exhibits A-F.)*

## **PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT SHAMROCK INDUSTRIAL PARK REPLAT**

Chair Pro Tem Zent called for the public hearing on the minor subdivision final plat for Shamrock Industrial Park First Replat. The proposed plat is two lots in one block on 4.47 acres and is located in southeast Bismarck, south of Bismarck Expressway along the west side of Airport Road (a replat of Lots 7-9, Block 5, Shamrock Industrial Park).

Mr. Hutchings gave an overview of the request, including the following findings related to land use for the minor subdivision final plat:

1. All technical requirements for approval of a minor subdivision final plat have been met.
2. The City Engineer has waived the requirement for a Post-Construction Stormwater Management Permit (PCSMP).
3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
5. The proposed subdivision would not adversely affect the public health, safety and general Welfare.

Mr. Hutchings said, based on these findings, staff recommends approval of the minor subdivision final plat for Shamrock Industrial Addition First Replat.

Chair Pro Tem said this used to be the S & B Landscaping site.

Commissioner Johnson asked if it would be allowed, or would they have to seek, additional access off of Airport Road.

Mr. Hutchings said one change to the plat has been made since it was included in the packet. This change is related to the access for the proposed Lot 2, which is also the access that the proposed Lot 1 will utilize via access easements through Lot 2. The version of the plat in the packet did not clearly show a break in the non-access line in the NE corner of the proposed plat.

The amended version was shown on the screen.

Mr. Hutchings noted that the access point onto the constructed portion of Airport Road is a shared access point located further north of this proposed plat within an access driveway located within the widened ROW in this area.

To ensure that no additional direct access is proposed to Airport Road, a plat note has been added to indicate the City Engineer must approve the access point onto Airport Road.

Landon Niemiller, Swenson, Hagen & Co., said there would be access and water and sewer easement for access and services and the existing access there now should be sufficient.

Commissioner Levchak asked if the intended occupant is known at this time. Mr. Niemiller said as of now he only knows it would be shop condos for commercial business uses.

Chair Pro Tem Zent said he is familiar with the spaces and has been told it might be a business for spa and pool supplies.

Chair Pro Tem Zent opened the public hearing.

There being no comments, Chair Pro Tem Zent closed the public hearing.

**MOTION:** Commissioner Bakken made a motion to approve the minor subdivision final plat for Shamrock Industrial Park First Replat. Commissioner Levchak seconded the motion and the motion was unanimously approved with Commissioners Bakken, Bitner, Johnson, Levchak, Martin, Schell and Zent voting in favor of the motion.

#### **PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT COTTONWOOD PARKVIEW ADDITION FIRST REPLAT**

Chair Pro Tem Zent called for the public hearing on the minor subdivision final plat for Cottonwood Parkview Addition First Replat. The proposed plat is 12 lots in four blocks on 20.17 acres and is located in south Bismarck, south of Santa Fe Avenue and north of East Burleigh Avenue, between South Washington Street and Boston Drive (a replat of Lots 3-9, Block 1, Lot 1, Block 2, Lot 1, Block 3, Lot 1, Block 6, Cottonwood Parkview Addition).

Ms. Wollmuth gave an overview of the request, including the following findings related to land use for the minor subdivision final plat:

1. All technical requirements for approval of a minor subdivision final plat have been met.
2. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP).
3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
5. The proposed subdivision would not adversely affect the public health, safety and general Welfare.



Ms. Wollmuth said, the proposed plat is being requested to correct existing right-of-way inaccuracies for Kamrose Drive and Dortmund Drive within the plat and create two additional lots for two-family development along the east side of South Washington Street. Based on these findings, she indicated that staff recommends approval of the minor subdivision final plat for Cottonwood Parkview Addition First Replat.

Chair Pro Tem Zent opened the public hearing.

There being no comments, Chair Pro Tem Zent closed the public hearing.

**MOTION:** Commissioner Bakken made a motion to approve the minor subdivision final plat for Cottonwood Parkview Addition First Replat. Commissioner Levchak seconded the motion and the motion was unanimously approved with Commissioners Bakken, Bitner, Johnson, Levchak, Schell and Zent voting in favor of the motion. Commissioner Martin abstained.

#### **PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT NORTHERN SKY SECOND ADDITION FIRST REPLAT**

Chair Pro Tem Zent called for the public hearing on the minor subdivision final plat for Northern Sky Second Addition First Replat. The proposed plat is three lots in three blocks on 23.38 acres and is located in northwest Bismarck, along the west side of North Washington Street and the north side of Ash Coulee Drive (a replat of Northern Sky Second Addition).

Mr. Hutchings gave an overview of the request, including the following findings related to land use for the minor subdivision final plat:

1. All technical requirements for approval of a minor subdivision final plat have been met.
2. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP).
3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
5. The proposed subdivision would not adversely affect the public health, safety and general Welfare.

Mr. Hutchings said, based on these findings, staff recommends approval of the minor subdivision final plat for Northern Sky Second Addition First Replat.

Chair Pro Tem Zent opened the public hearing.

Mr. Niemiller said it was decided to replat the entire subdivision due to later learning that a utility box would be within the right-of-way and to avoid any confusion for development, with the only small change being to the right-of-way.

Commissioner Levchak said it appears the roadway jogs slightly to the east. Mr. Niemiller said that is correct and that was on purpose to make the entire right-of-way 66 feet wide.

There being no further comments, Chair Pro Tem Zent closed the public hearing.

Commissioner Bitner asked if there were any special assessments held in abeyance for improvements in this area that would be applied upon annexation of the property.

Commissioner Schell said that is correct and the costs are held here and elsewhere for items such as streets and watershed needs. He said they have not performed the calculation for specials held in abeyance yet, but it usually is on a per square foot calculation for each improvement type.

Mr. Hutchings said that calculation could probably be provided once it is available. Commissioner Schell said he would work on it and with Mr. Hutchings and relay that information once it is done.

**MOTION:** Commissioner Bakken made a motion to approve the minor subdivision final plat for Northern Sky Second Addition First Replat. Commissioner Bitner seconded the motion and the motion was unanimously approved with Commissioners Bakken, Bitner, Johnson, Levchak, Martin, Schell and Zent voting in favor of the motion.

## **OTHER BUSINESS**

### **UPDATE ON TOGETHER 2045**

Mr. Nairn said this is a quieter time of work on the plan and they have collected more information and are now processing all of it in order to compile and detail it. He said the focus groups will reconvene and review some of the draft goals and objectives and staff expects to be able to provide the first draft in May.

There was no other business to discuss at this time.

## **ADJOURNMENT**

There being no further business, Chair Schwartz declared the Bismarck Planning & Zoning Commission adjourned at 5:32 p.m. to meet again on April 27, 2022.

Respectfully submitted,

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Hilary Balzum  
Recording Secretary

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Paul Zent  
Chair Pro Tem

**From:** [Planning - General Mailbox](#)  
**To:** [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)  
**Subject:** FW: Agenda Item #3  
**Date:** Tuesday, March 22, 2022 12:39:26 PM

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-----Original Message-----

From: Sandy Wiedenmeyer <[REDACTED]>  
Sent: Monday, March 21, 2022 9:29 PM  
To: Planning - General Mailbox <[planning@bismarcknd.gov](mailto:planning@bismarcknd.gov)>  
Subject: Agenda Item #3

CAUTION: \*\*\*External Email - Use caution clicking links or opening attachments\*\*\*

I am a resident in the Boulder Ridge Addition and I am strongly opposed to the zoning change proposed in this project. It should remain residential zoning as is the majority of the surrounding area. Just north of this proposed addition is an elementary school. Adding businesses in this area, especially with two main entrances on LaSalle, would increase and change the type of traffic in the area making it more dangerous for the children walking and parents picking up their children. It is not desirable to have businesses in a school and residential area. Also the people who own homes to the south of this, with their back yards to this new addition, were assured when they purchased that future additions would be residential.

Sandy Wiedenmeyer  
5025 Boulder Ridge Road

Sent from my iPhone

**From:** [Planning - General Mailbox](#)  
**To:** [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)  
**Subject:** FW: Agenda Item #3 - Please Vote NO  
**Date:** Tuesday, March 22, 2022 1:06:22 PM

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-----Original Message-----

From: Pam Sharp <[REDACTED]>  
Sent: Tuesday, March 22, 2022 8:35 AM  
To: Planning - General Mailbox <[planning@bismarcknd.gov](mailto:planning@bismarcknd.gov)>  
Subject: Agenda Item #3 - Please Vote NO

CAUTION: \*\*\*External Email - Use caution clicking links or opening attachments\*\*\*

My name is Pamela Sharp and I live in Boulder Ridge. I am strongly opposed to changing the zoning for the proposed Boden Addition.

Commercial buildings should not be across the street from an elementary school. It is dangerous and also changes the type of development homeowners were promised when they invested in homes in Boulder Ridge.

Please Vote NO on Agenda Item #3

Thank You

Pamela Sharp  
524 Slate Drive

Sent from my iPad

**From:** [Planning - General Mailbox](#)  
**To:** [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)  
**Subject:** FW: Item 3 : Boden addition  
**Date:** Tuesday, March 22, 2022 1:09:40 PM

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**From:** [REDACTED]  
**Sent:** Monday, March 21, 2022 8:20 PM  
**To:** Planning - General Mailbox <planning@bismarcknd.gov>  
**Subject:** Item 3 : Boden addition

**CAUTION: \*\*\*External Email - Use caution clicking links or opening attachments\*\*\***

Planning commission:

In regards to the change in zoning requested in the Boden Addition. I want you to know that I am against this change.  
Why would you want to change a residential zoning to allow commercial property between a residential neighborhood and an elementary school ?  
We do not need more traffic near the elementary school. This is a safety issue for our children. There is already enough traffic before and after school.  
We purchased our lot and built a home with the understanding that this was an upscale residential neighborhood. We do not want commercial property in our backyard.

This is the third time the Knutson's have requested this change. How many times are you willing to hear his arguments for zoning change? They are just interest in making more money by changing this to commercial instead of selling individual lots. Promising a park was just a ploy to try and get this through.

Please let all the commissioners know the above.

Thank you for your time.

Barb Wrolstad  
5024 Boulder Ridge Rd  
Bismarck, ND 58503



**From:** [Planning - General Mailbox](#)  
**To:** [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)  
**Subject:** FW: Agenda item #3: Boden Development  
**Date:** Tuesday, March 22, 2022 1:23:23 PM

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**From:** Brenda Milkey <[REDACTED]>  
**Sent:** Tuesday, March 22, 2022 12:51 PM  
**To:** Planning - General Mailbox <planning@bismarcknd.gov>  
**Subject:** Agenda item #3: Boden Development

**CAUTION: \*\*\*External Email - Use caution clicking links or opening attachments\*\*\***

Hello,

We respectfully would like to ask you to vote in opposition to changing the Boulder Ridge zoning based upon the following concerns:

1.) Two entrances off of E LaSalle are basically directly across from an entrance to the elementary school that is heavily used. Traffic is already tough in the morning before adding drivers trying to get to work in an office complex at 8am! So dangerous...especially if we're getting rid of time changes and the sun won't be up until after school starts in the winter. There are elementary students walking and biking(weather permitting) crossing to the school. This is a safety concern!

2.) We bought our homes with the understanding this was a family home development and not zoned for commercial use. Boulder Ridge was marketed as noted below by Knutson Homes as:

## **Boulder Ridge Fifth Addition...**

### **Bismarck, North Dakota's Premiere Development**

"We are committed to providing a very special and exceptional housing environment at Boulder Ridge."

3.) Homeowners with homes of considerable value in the region may lose buyers and home value if their home is in close proximity to an office building.

Thank you for your consideration.

Brenda and Henry Milkey  
Sent from my iPhone

**From:** [Planning - General Mailbox](#)  
**To:** [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)  
**Subject:** FW: Agenda item #3 - please vote no  
**Date:** Wednesday, March 23, 2022 8:57:49 AM

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**From:** Christine Taylor <[REDACTED]>  
**Sent:** Tuesday, March 22, 2022 4:29 PM  
**To:** Planning - General Mailbox <planning@bismarcknd.gov>  
**Subject:** Agenda item #3 - please vote no

**CAUTION: \*\*\*External Email - Use caution clicking links or opening attachments\*\*\***

My name is Christine Taylor. I live in Boulder Ridge and I am opposed to changing the zoning for the proposed Boden Addition.

Thank you,  
Christine Taylor

[Sent from Yahoo Mail on Android](#)

**From:** [Planning - General Mailbox](#)  
**To:** [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)  
**Subject:** FW: Meeting Agenda March 23, 2022, Agenda Item number 3 Boden Addition  
**Date:** Wednesday, March 23, 2022 9:01:07 AM

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**From:** Brandon Vaughan <[REDACTED]>  
**Sent:** Wednesday, March 23, 2022 7:37 AM  
**To:** Planning - General Mailbox <planning@bismarcknd.gov>  
**Subject:** Meeting Agenda March 23, 2022, Agenda Item number 3 Boden Addition

**CAUTION: \*\*\*External Email - Use caution clicking links or opening attachments\*\*\***

Hello,

I'm writing this letter in strong opposition to the zoning change and development proposed in Agenda Item number 3, Boden Addition. I live at 4913 Granite Dr, Bismarck, ND 58503. My front door will look out at this addition as my neighbors across the street backyards will be directly adjacent to this addition. When we purchased our home we were sold an idea of Boulder Ridge. The idea was of an exclusive community of high end homes constrained by a reasonable homeowners association and its bylaws. This new development is the opposite of single family, high end homes. There are multi-family units on small lots and office buildings proposed in this plan. This is not the vision of Boulder Ridge that was sold to the current homeowners. This plan also places two entrances to the division from LaSalle Dr within a corridor of Onyx and Washington. This is the same corridor of LaSalle that Liberty Elementary School sits on. The driveway to Liberty Elementary and Onxy Drive will be virtually traffic locked in the mornings if this proposal is approved. I drop my children off every morning at Liberty and there are many times I wait to get out of the drop off area because traffic is backed up from Washington all the way past Onxy. This added congestion from packing in multi-family homes and businesses into this area, rather than single family homes, may lead to safety concerns for children getting to and from Liberty because of the added amount of traffic naturally occurring from the occupancy of these proposed structures. Again, I strongly oppose this proposed plan. This area should be developed into only single family housing as intended for Boulder Ridge and to ensure traffic safety for the children of Liberty Elementary and the neighborhood.

Respectively,

Brandon Vaughan  
4913 Granite Dr.  
Bismarck, ND 58503

**PERMIT ACTIVITY REPORT - MTD**  
**DATE SELECTION 3/2022**

\*\*\*\*\*City\*\*\*\*\*

\*\*\*\*\*ETA\*\*\*\*\*

	<b>3/2022</b>		<b>3/2021</b>		<b>3/2022</b>		<b>3/2021</b>	
<b>Census Code</b>	<b>Permits</b>	<b>Valuations</b>	<b>Permits</b>	<b>Valuations</b>	<b>Permits</b>	<b>Valuations</b>	<b>Permits</b>	<b>Valuations</b>
SINGLE FAMILY DETACHED	20	\$6,127,087.17	25	\$7,518,850.02	1	\$334,838.14	9	\$3,686,717.42
ROWHOUSE (2) 1-HR FIRE SEPARATION	12	\$2,734,134.02	3	\$596,245.50	0	\$0.00	0	\$0.00
RESIDENTIAL ADDITION	1	\$44,838.00	2	\$28,400.00	0	\$0.00	2	\$247,000.00
DETACHED GARAGE	4	\$88,550.00	2	\$43,200.00	3	\$118,250.00	7	\$335,100.00
DECKS\PORCHES & COVERED PORCHES	3	\$17,970.75	9	\$31,815.00	0	\$0.00	2	\$10,584.00
RESIDENTIAL ALTERATION/OTHER	5	\$54,586.73	4	\$284,677.00	0	\$0.00	0	\$0.00
STORAGE SHED	3	\$9,240.00	4	\$11,460.00	0	\$0.00	0	\$0.00
BASEMENT FINISH	6	\$169,140.50	11	\$198,337.50	2	\$55,319.50	0	\$0.00
RESIDENTIAL	1	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
NURSERY STOCK SALES	0	\$0.00	4	\$0.00	0	\$0.00	0	\$0.00
NEW SIGN PERMITS	10	\$63,350.00	7	\$73,550.00	0	\$0.00	0	\$0.00
SIGN ALTERATION	0	\$0.00	1	\$3,200.00	0	\$0.00	0	\$0.00
COMMERCIAL NEW CONSTRUCTION	4	\$29,660,469.00	10	\$2,814,471.00	6	\$1,200,000.00	0	\$0.00
COMMERCIAL ALTERATION	5	\$908,604.68	4	\$1,243,000.00	0	\$0.00	0	\$0.00
<b>Total</b>	<b>74</b>	<b>\$39,877,970.85</b>	<b>86</b>	<b>\$12,847,206.02</b>	<b>12</b>	<b>\$1,708,407.64</b>	<b>20</b>	<b>\$4,279,401.42</b>

**PERMIT ACTIVITY REPORT - MTD**  
**DATE SELECTION 3/2022**

\*\*\*\*\*City\*\*\*\*\*

\*\*\*\*\*ETA\*\*\*\*\*

	<b>3/2022</b>		<b>3/2021</b>		<b>3/2022</b>		<b>3/2021</b>	
<b>Trade Permit Type</b>	<b>Permits</b>	<b>Valuations</b>	<b>Permits</b>	<b>Valuations</b>	<b>Permits</b>	<b>Valuations</b>	<b>Permits</b>	<b>Valuations</b>
BUILDING ELECTRIC	78	\$15,500.00	94	\$0.00	0	\$0.00	0	\$0.00
BUILDING MECHANICAL	112	\$890,973.30	118	\$1,175,884.22	5	\$12,345.00	9	\$58,915.00
BUILDING PLUMBING	26	\$403,570.80	41	\$1,227,358.00	4	\$48,830.00	4	\$99,500.00
BUILDING SEPTIC	0	\$0.00	0	\$0.00	0	\$0.00	6	\$24,000.00
<b>Total</b>	<b>216</b>	<b>\$1,310,044.10</b>	<b>253</b>	<b>\$2,403,242.22</b>	<b>9</b>	<b>\$61,175.00</b>	<b>19</b>	<b>\$182,415.00</b>



**PERMIT ACTIVITY REPORT - MTD**  
**DATE SELECTION 3/2022**

	*****City*****		*****ETA*****	
	<b>3/2022</b>	<b>3/2021</b>	<b>3/2022</b>	<b>3/2021</b>
<b>Living Units</b>	<b>Units</b>	<b>Units</b>	<b>Units</b>	<b>Units</b>
BASEMENT FINISH	0	0	0	0
DECKS\PORCHES & COVERED PORCHES	0	0	0	0
DETACHED GARAGE	0	0	0	1
RESIDENTIAL ADDITION	0	0	0	0
RESIDENTIAL ALTERATION/OTHER	0	1	0	0
ROWHOUSE (2) 1-HR FIRE SEPARATION	11	3	0	0
SINGLE FAMILY DETACHED	20	21	1	9
<b>Total</b>	<b>31</b>	<b>25</b>	<b>1</b>	<b>10</b>

**PERMIT ACTIVITY REPORT - YTD**  
**DATE SELECTION 3/2022**

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\*\*\*\*\*ETA\*\*\*\*\*

	<b>3/2022</b>		<b>3/2021</b>		<b>3/2022</b>		<b>3/2021</b>	
<b>Census Code</b>	<b>Permits</b>	<b>Valuations</b>	<b>Permits</b>	<b>Valuations</b>	<b>Permits</b>	<b>Valuations</b>	<b>Permits</b>	<b>Valuations</b>
SINGLE FAMILY DETACHED	23	\$6,727,219.65	31	\$9,080,528.79	2	\$627,397.69	11	\$4,351,899.92
ROWHOUSE (2) 1-HR FIRE SEPARATION	12	\$2,734,134.02	19	\$3,495,699.25	0	\$0.00	0	\$0.00
RESIDENTIAL ADDITION	2	\$44,838.00	4	\$160,010.60	0	\$0.00	2	\$247,000.00
DETACHED GARAGE	3	\$28,550.00	3	\$55,200.00	4	\$178,250.00	10	\$457,500.00
DECKS\PORCHES & COVERED PORCHES	5	\$23,451.75	10	\$34,839.00	0	\$0.00	2	\$10,584.00
RESIDENTIAL ALTERATION/OTHER	11	\$94,586.73	24	\$859,201.00	2	\$305,675.48	1	\$38,000.00
HOME OCCUPATION	1	\$0.00	1	\$0.00	0	\$0.00	1	\$0.00
STORAGE SHED	3	\$9,240.00	5	\$17,940.00	0	\$0.00	0	\$0.00
BASEMENT FINISH	20	\$526,951.50	38	\$875,415.00	4	\$91,467.50	3	\$69,660.00
RESIDENTIAL	1	\$0.00	4	\$0.00	0	\$0.00	0	\$0.00
NURSERY STOCK SALES	0	\$0.00	4	\$0.00	0	\$0.00	0	\$0.00
NEW SIGN PERMITS	29	\$237,185.00	16	\$112,401.44	2	\$38,866.00	0	\$0.00
SIGN ALTERATION	0	\$0.00	3	\$64,417.00	0	\$0.00	0	\$0.00
COMMERCIAL NEW CONSTRUCTION	7	\$30,212,469.00	5	\$2,189,300.00	10	\$2,400,000.00	6	\$734,171.00
COMMERCIAL ADDITION	0	\$0.00	1	\$611,000.00	0	\$0.00	0	\$0.00
COMMERCIAL ALTERATION	25	\$6,454,548.00	22	\$10,445,977.00	2	\$3,715,000.00	0	\$0.00
<b>Total</b>	<b>142</b>	<b>\$47,093,173.65</b>	<b>190</b>	<b>\$28,001,929.08</b>	<b>26</b>	<b>\$7,356,656.67</b>	<b>36</b>	<b>\$5,908,814.92</b>

**PERMIT ACTIVITY REPORT - YTD  
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	<b>3/2022</b>		<b>3/2021</b>		<b>3/2022</b>		<b>3/2021</b>	
<b>Permit Type</b>	<b>Permits</b>	<b>Valuations</b>	<b>Permits</b>	<b>Valuations</b>	<b>Permits</b>	<b>Valuations</b>	<b>Permits</b>	<b>Valuations</b>
BUILDING ELECTRIC	163	\$25,500.00	220	\$34,500.00	1	\$0.00	1	\$0.00
BUILDING MECHANICAL	343	\$5,088,655.33	322	\$4,040,913.65	49	\$259,652.50	56	\$459,422.50
BUILDING PLUMBING	46	\$1,429,392.05	67	\$3,167,966.00	6	\$68,155.00	6	\$115,500.00
BUILDING SEPTIC	0	\$0.00	0	\$0.00	0	\$0.00	6	\$24,000.00
<b>Total</b>	<b>552</b>	<b>\$6,543,547.38</b>	<b>609</b>	<b>\$7,243,379.65</b>	<b>56</b>	<b>\$327,807.50</b>	<b>69</b>	<b>\$598,922.50</b>

**PERMIT ACTIVITY REPORT - YTD**  
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	<b>3/2022</b>	<b>3/2021</b>	<b>3/2022</b>	<b>3/2021</b>
<b>Living Units</b>	<b>Units</b>	<b>Units</b>	<b>Units</b>	<b>Units</b>
BASEMENT FINISH	0	0	0	0
DECKS\PORCHES & COVERED PORCHES	0	0	0	0
DETACHED GARAGE	0	0	0	1
RESIDENTIAL ADDITION	0	0	0	0
RESIDENTIAL ALTERATION/OTHER	0	1	0	0
ROWHOUSE (2) 1-HR FIRE SEPARATION	11	19	0	0
SINGLE FAMILY DETACHED	23	27	2	11
<b>Total</b>	<b>34</b>	<b>47</b>	<b>2</b>	<b>12</b>